# Jurisdictional Statement

Supreme Court, U.S.
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81-1770
No. _____

IN THE
# Supreme Court of the United States

FEBRUARY TERM, 1982

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHROBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

v.

SHARON LACOMB, JAMES A. WOOLEY, PHILIP R. KRASS,

*Appellees.*

**On Appeal from the United States District Court For The District Of Minnesota, Fourth Division**

## JURISDICTIONAL STATEMENT

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## QUESTIONS PRESENTED*

In 1971, during the course of Minnesota's last reapportionment, it became encumbent upon this Court to reverse a decision of a three-judge panel headed by Circuit Judge Gerald W. Heaney which exceeded the scope of its remedial power by reducing the size of the Minnesota Legislature; an action in derogation of established state policy and not essential to cure the federal constitutional defect. Now, a decade later, a Minnesota federal court presided over by the same Circuit Judge, again ignores state policy pursuing its own redistricting preferences, and engaging in social engineering, grants a remedy far beyond the constitutional infirmity necessitating judicial intervention. This action of the district court raises the following issues on appeal:

I. Whether a federal court, in adjudicating an equal population challenge following a state's failure to redistrict its Congressional districts, exceeds the scope of its remedial powers when it disregards state policy embodied in the district lines of the prior constitutional redistricting, and without a showing that minor changes in the prior district lines may be made in order to remedy such population deviations, reconfigures the entire state.

II. Whether a federal court's preference for recognition of non-racial geographic communities rises to the level of a federal constitutional issue, so as to warrant that Court's wholesale remodeling of existing district lines to accommodate this preference.

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*Due to the fact that the instant appeal presents issues nearly identical to *Sixty Seventh Minnesota Senate* v. *Beens*, 406 U.S. 187 (1972), Appellants preface their questions with this brief introduction.

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LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHROBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

v.

SHARON LACOMB, JAMES A. WOOLEY, PHILIP R. KRASS,

*Appellees.*

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**On Appeal from the United States District Court For The District Of Minnesota, Fourth Division**

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## CITATION TO OPINION BELOW

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The March 11, 1982 Memorandum Opinion, Order, and Plan of Congressional Districts issued by the three-judge court are not officially reported. The Memorandum Opinion, Order, and Plan were filed in the United States District Court for the District of Minnesota, Fourth Division as Civil File Number 4-81 Civ. 414; they are set forth in the accompanying Appendix at App. 1a.

### JURISDICTION

On July 13, 1981, the Plaintiffs filed their complaint invoking federal jurisdiction pursuant to 28 U.S.C. §§ 1343, 2201, 2202, and 2284. The complaint sought declaratory and injunctive relief to redistrict the eight congressional districts of the

State of Minnesota so as to comport with the federal constitutional requirement of population equality.[1] The Plaintiffs invoked the district court's jurisdiction to prevent an alleged violation of federal constitutional and statutory rights, including those protected by the Constitution of the United States, Article I, Section 2; the Fourteenth Amendment, and 42 U.S.C. § 1983.

A statutory three-judge court was convened pursuant to 28 U.S.C. § 2284(a), composed of Circuit Judge Gerald W. Heaney, District Judge Harry H. MacLaughlin and District Judge Donald D. Alsop. On September 24, 1981, Appellants moved and were granted leave to intervene in the action. On March 11, 1982, after notice and opportunity for the parties to submit proposed plans into the record but without holding an evidentiary hearing or trial as requested by Appellants, the court issued a Memorandum Opinion and Plan over the dissent of District Judge Alsop, granting injunctive relief. The court below court redistricted Minnesota's eight congressional districts rejecting the various plans of all the parties.

The Intervenors filed a Notice of Appeal on March 22, 1982. Jurisdiction is conferred on this Court by 28 U.S.C. § 1253 to review a decision of a statutory three-judge court upon appeal by any party from an order or judgment granting or denying injunctive relief.

## CONSTITUTIONAL PROVISIONS INVOLVED

Article 1, Section 2 provides, in pertinent part:

Representatives shall be apportioned among the several States which may be included within this Union, according to

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[1] A complaint filed on March 26, 1981 by the same Plaintiffs sought judicial action in the reapportionment of the Minnesota State Legislature and the district court considered these issues alongside the congressional reapportionment. This appeal deals exclusively with the adjudication of the congressional case.

their respective Numbers. . . . The actual Enumeration shall be made within three Years after the First Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct.

Article 1, Section 4 provides, in pertinent part:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof. . . .

The Fourteenth Amendment provides, in pertinent part:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities or citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2, Representatives shall be apportioned among the several States according to their respective number, counting the whole number of persons in each State. . . .

Minnesota Constitution, Article IV, Section 3, provides:

At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.

## STATUTORY PROVISIONS INVOLVED

2 U.S.C. § 2a provides, in pertinent part:

(a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each state, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportion, no State to receive less than one Member.

(b) Each State shall be entitled, in the Eighty-third Congress and in each Congress thereafter until the taking effect of a reapportionment under this section or subsequent statute, to the number of Representatives shown in the statement required by subsection (a) of this section, no State to receive less than one Member. It shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. . . .

42 U.S.C. § 1983 provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

## STATEMENT OF THE CASE

In 1980, committees were formed within the Minnesota House and Senate to handle the upcoming tasks of legislative and congressional redistricting. On March 19, 1981, the United States Bureau of the Census formally transmitted the 1980 census data to the State of Minnesota. On July 14, 1981, the Plaintiffs commenced an action alleging that their constitutional rights had been violated by the failure of the Legislature of the State of Minnesota to redistrict the congressional districts to conform with the population data, and sought judicial drafting of a plan by December 1, 1981.[2]

Due to numerous errors in the statistics provided by the Census Bureau, an accurate data base was not made available to the Legislature until August 28, 1981. At that time, the Legislature was able to seriously address the reapportionment issue. No plans had been enacted by the close of the 1981 Session, but the House and Senate determined to reconvene on January 12, 1982, two weeks ahead of schedule to redouble their reapportionment effort.

While acknowledging that the Legislature might yet act in time to establish plans for the 1982 elections, the court prepared to review plans proposed by the parties or draft its own plan. After notice, the court issued criteria which the submitted maps were to follow.[3] The parties were ordered to file their plans by January 29, 1982. The court conducted no trial or evidentiary hearing having denied Appellants motion for such. Oral argument was heard on the merits of the plans on February 16, 1982.

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[2] A similar suit aimed at the State legislative districts had been filed on March 26, 1981.

[3] The court's order is attached at App. 71a.

## THE REDISTRICTING PLANS

At the outset it became clear that the plans proposed by the parties would be of two types. The so-called "four-four" plan represented a drastic departure from prior district plans enacted by the Legislature. It divides the state into two communities of interest — a seven county metropolitan area and the remaining outstate, and allots four seats to each of these geographic areas. The "least changes" plan adheres as closely as possible to the 1971 plan in deference to the fact that as the Legislature's most recent redistricting statute, it embodies current state policy.

The following plans for the congressional redistricting of Minnesota were filed with the court:

1. The State Senate, denied leave to intervene, was permitted to file as *amicus curia* the "Stumpf Plan" which had passed the Senate 40-23; a vote strictly along party lines with only two Independent Republicans voting in favor, one of whom did so to assure Independent Republican representation on any conference committee.

| | |
|---|---|
| Total cumulative deviation | — 5,198 |
| Maximum deviation | — 1,188 |
| Average deviation | — 650 |

2. The Plaintiff's plan is also a "four-four" plan which constructs four districts within a specifically delineated metropolitan area and four out-state districts.

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|---|---|
| Total cumulative deviation | — 5,098 |
| Maximum deviation | — 1,219 |
| Average deviation | — 637 |

3. The Appellants submitted two plans referred to by the court as Plan A and Plan B.

A. Plan A is the same as the "McCarron Plan" which was passed through the House with bi-partisan support on a

104-24 vote. The map adheres closely to the lines enacted by the Legislature in 1971, and in 1961 as well.

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|---|---|
| Total cumulative deviation | — 138 |
| Maximum deviation | — 41 |
| Average deviation | — 17 |

B. Plan B was drafted by Appellants' expert demographer. It adheres to the court's criteria and like the McCarron Plan endeavors to make only those alterations necessary to accommodate demographic changes indicated by the census data.

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|---|---|
| Total cumulative deviation | — 350 |
| Maximum deviation | — 110 |
| Average deviation | — 44 |

4. The majority of the court, over the dissent of Judge Alsop, adopted a four-four plan.

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|---|---|
| Total cumulative deviation | — 76 |
| Maximum deviation | — 36 |
| Average deviation | — 9.5 |

## THE QUESTIONS PRESENTED ARE SUBSTANTIAL

### Introduction

This appeal presents issues the resolution of which will reverberate not only within the limited circumference of reapportionment law, but throughout the expanse of our judicial system whenever state legislative action is subject to the scrutiny of the federal judiciary. In the wake of legislative inaction, the federal court below had the duty of bringing the Minnesota Congressional district scheme into constitutional compliance based on the 1980 census figures. The jurisdiction of the court in this controversy was predicated solely on the claim that the Minnesota statutes enacted in 1971 prescribing the districts violated the Fourteenth Amendment as interpreted by *Wesberry*

v. *Sanders*, 370 U.S. 1 (1964), to require population among congressional districts to be as "equal as practicable." The district court, however, declined to make the minor adjustments necessary to bring the existing plan into constitutional compliance, and under the guise of vindicating Fourteenth Amendment rights, invaded an area of exclusive state concern by dramatically altering the existing district configuration. The court's sole rationale for this cavalier usurpation of state authority was an idealogical affinity for the concept of a cartographically-contrived metropolitan area containing half the state's population and commanding a proportional number of congressional seats.

**I. A FEDERAL COURT, IN ADJUDICATING AN EQUAL POPULATION CHALLENGE FOLLOWING A STATE'S FAILURE TO REDISTRICT ITS CONGRESSIONAL DISTRICTS, EXCEEDS THE SCOPE OF ITS REMEDIAL POWERS WHEN IT DISREGARDS STATE POLICY EMBODIED IN THE DISTRICT LINES OF THE PRIOR CONSTITUTIONAL REDISTRICTING, AND WITHOUT A SHOWING THAT MINOR CHANGES IN THE PRIOR DISTRICT LINES MAY BE MADE IN ORDER TO REMEDY SUCH POPULATION DEVIATIONS, RECONFIGURES THE ENTIRE STATE.**

In July of 1981, the district court in Minnesota found itself in a position not unlike that of numerous courts nationwide. The release of 1980 Census Bureau data rendered the Minnesota congressional district scheme unconstitutional under the "one man - one vote" standard. Citizens of the state, anticipating the Legislature's inability to do the job in time for the 1982 elections, filed suit in federal court. The parties to the action were requested by the court to submit maps and supporting memoranda. The Plaintiffs advocated a plan which divided the state into two regions purportedly conforming to the two identified communities of interest: Metropolitan Minneapolis-St. Paul and the "out-state" region, allocating four of the State's eight

seats to each region. This four-four scheme represents a radical departure from the 1971 map. The Appellants submitted two plans, both based on the 1971 map and both adopted to achieve population equality. The court imposed a four-four scheme.

A federal court is vested with the authority to draft a state's congressional districting scheme when the existing map suffers from some cognizable federal constitutional infirmity. It does not fall to a court to *sua sponte* convene a three-judge panel and redesign the map every ten years. Just as the jurisdiction of the court is predicated on a specific constitutional violation, so too, the task of the court is to correct the specific condition that offends the Constitution. *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, (1971). "As with any equity case, the nature of the violation determines the scope of the remedy." *Id.* at 15. This traditional limit on the exercise of remedial power of a court is sufficient in itself to dictate the result advocated by the Appellants — an adherence in a court-ordered plan to the existing map with adjustments made only as necessitated by demographic changes indicated in the census data. With all due respect to the court below, the Majority failed to honor the simple maxim — "If it ain't broke, don't fix it."

This Court has repeatedly characterized reapportionment as "primarily a matter for legislative consideration and determination." *Reynolds* v. *Sims*, 377 U.S. 533, 586 (1964). In *Connor* v. *Finch*, 431 U.S. 407 (1977) Justice Stewart wrote for the Court: "[A] state legislature is the institution that is by far the best situated to identify and then reconcile traditional state policies within the constitutionally mandated framework of population equality." *Id.* at 415 (1977). [4]

[4] This "least changes" approach to court-ordered drafting has the advantage of eliminating even an appearance of arbitrariness. As the cases have emphasized, the court's task is "inevitably an exposed and sensitive one that must be accomplished circumspectly, and in a manner free from any taint of arbitrariness and discrimination." See *Connor* v. *Finch*, 431 U.S. at 415; *Roman* v. *Sincock*, 377 U.S. 695, 710 (1964).

The Supreme Court has held unequivocally that a district court should honor state policies in the context of congressional reapportionment. *White* v. *Weiser*, 412 U.S. 783, 795 (1973). Following the 1970 census, the Texas legislature had enacted a plan which did not attain a level of population equality capable of withstanding constitutional challenge. In *White* v. *Weiser*, the Texas court was reversed when, choosing among several plans which achieved population equality, it declined to impose the plan most resembling the one duly enacted by the legislature. Although the Minnesota legislature had not spoken anew to the issue of redistricting, its most recent enactment, the 1971 plan, should have guided the court in discharging its duty. The policies embodied in that statute were not enervated, discredited, or rendered unsound by the minor population shifts which occurred since 1970.

The district court below went to great lengths to "identify" state policy. Their examination included the review of other statutes such as the creation of a planning agency for the metropolitan region (Minn. Laws 1967, Ch. 892) and establishment of a metropolitan transit commission (Minn. Laws 1971, Ex. Sess. Ch. 24). The court chose to regard these enactments relating to unique state functional operations as comparable to state policy suggesting election districts for members of Congress, while ignoring the 1971 congressional map in this determination. The lines on the map, no less than any other statute, embody state policy and indeed are the most direct and recent enunciation of that policy. These other laws considered by the court all preceded or were nearly contemporaneous with the 1971 congressional map. Thus, such laws were entitled to little weight as representing statements of policy regarding communities of interest as compared with that expressed by the Legislature's 1971 district configuration. This glaring error by the district court throws into sharp relief the wisdom as enunciated *Connor* v. *Finch* that, "a state legislature is the institution

that is by far the best situated to *identify* . . . traditional state policies." 431 U.S. at 415 (emphasis added).

If the prior map is not binding on a federal court, then the court may sift through the state code, find a statute or two to support its socio-political idealogy, and proclaim state policy to be that which it would like it to be. The federal judiciary, required to modify a plan of congressional districts to achieve population equality, may not utilize the occasion to implement a personal philosophy, no matter how sincerely held, in derogation of the legislative authority of the state.

In *Sixty-Seventh State Senate* v. *Beens*, 406 U.S. 187 (1972), this Court summarily reversed a three-judge panel for reducing the size of the Minnesota legislature. Mr. Justice Stewart, dissenting from the summary nature of the disposition, but agreeing with this Court's rationale, wrote; "In the reapportionment context, it is the duty of a court seeking to remedy an unconstitutional apportionment to right the constitutional wrong while minimizing disturbance of legitimate state policies." *Id.* at 202. There will certainly be rare instances where a state loses or gains congressional seats as a result of nationwide demographic shifts, or where the population deviations among the existing districts are so excessive, that only "radical surgery" of the state's prior map could cure the constitutional defect. Even in such an instance, the court should glean guidance from the prior map. Clearly, however, where the constitutional infirmity can be alleviated while still maintaining the basic configuration, a court should not engage in creative draftsmanship, for which "they possess no specific mandate" and no expertise. *See Connor* v. *Finch*, 431 U.S. at 415.

In the case before the court, the policy of the State of Minnesota regarding congressional districts has been expressed unequivocally and with particular force. The plan drafted in 1961 was again enacted in 1971 with the adjustments necessi-

tated by the 1970 census data. In 1981, the same configuration took form in the McCarron Plan (Plan A) which passed through the House with bi-partisan support by a margin of 104-22. The record is barren of any fact even remotely tending to support a conclusion that the 1971 district configuration renders population deviations unavoidable. On the contrary, the existence of the McCarron Plan, the Appellants' proposed Plan B, and the Masters' "Minimal Change Plan" all evidence the fact that the constitutional inadequacies of the 1971 map could have been remedied without the "radical surgery" performed by the court below. *Beens*, 405 U.S. at 198.

## II. A FEDERAL COURT'S PREFERENCE FOR ELECTORAL RECOGNITION OF NON-RACIAL GEOGRAPHIC COMMUNITIES DOES NOT RISE TO THE LEVEL OF A FEDERAL CONSTITUTIONAL ISSUE SUFFICIENT TO WARRANT THAT COURT'S WHOLESALE REMODELING OF EXISTING LINES TO ACCOMMODATE THIS PREFERENCE.

In *Whitcomb* v. *Chavis* 403 U.S. 124 (1971), the Supreme Court overturned the decision of a three-judge panel, which had dismantled Indiana's system of multi-member districts upon a finding of racially discriminatory impact in one ghetto area, in part because the lower court "did not explain why it was constitutionally compelled to disestablish the entire county district and to intrude upon state policy any more than necessary." *Id.* at 160. The Majority opinion in the instant case similarly fails to articulate why it was constitutionally compelled to radically reshape Mir sota's congressional districts. The court's sole rationale for its bold action is the desire to accommodate the communities of interest which it has divined.

The court's approach might be justified were electoral recognition of non-racial geographic groups given cognizance as a constitutional requirement. *Reynolds* v. *Sims* 377 U.S. 533, however says one-man — one-vote, not one identifiable

geographically compact group of appropriate size — one district. This Court has never held that the Fourteenth Amendment protects the ability of geographic or specific interest groups to exercise political power. Nor has it held that the Fourteenth Amendment guarantees the individual the right to be included in the electoral district which maximizes the potency of his vote. *United Jewish Organization of Williamsburgh, Inc.* v. *Carey*, 430 U.S. 144 (1977); *Whitcomb* v. *Chavis*, 403 U.S. 124 (1971).[5] *Wells* v. *Rockefeller*, 394 U.S. 542 (1969); *See Kirkpatrick* v. *Preisler*, 394 U.S. 525 (1969);

The failure of Minnesota's congressional plan to herd all the state's voters into homogeneous, like-interest districts does not raise a federal constitutional issue. The desirability of such a design is vigorously controverted. In congressional reapportionment, the significance of such a factor is greatly diminished. A legislature, however, might well wish to consider the state's geographic, socio-economic and political interest groups in devising its congressional districts. In 1961 and 1971, the Minnesota legislature chose *not* to place much emphasis on the metropolitan — out-state division of the State. It constitutes an entirely proper part of a legislature's function to weigh various factors, reconcile competing concerns, and enact its best compromise. It is altogether inappropriate for federal judges to consider these factors and order their constitutionally superfluous preference. The number of people within a district as compared to other districts is of constitutional import, but absent invidious discrimination, the constituency of a con-

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[5] Two district court panels in Illinois have addressed this issue in recent litigation involving the 1980 reapportionment in that state. See *Rybicki* v. *State Board of Elections*, No. 81C6030 (N.D. Ill. January 12, 1982) *In re Illinois Congressional District Reapportionment Cases*, (N.D. Ill.) Master File No. 81 C 3915, *aff'd sub nom, Ryan* v. *Otto*, 50 U.S.L.W. 3546 (1982).

gressional district is entirely a matter of state policy without federal constitutional implications.

## CONCLUSION

The action of the district court, by a divided vote, will severely impact upon the voters of the State of Minnesota. Indeed, the issues presented in this appeal will affect voters throughout the country. Therefore, Appellants respectfully request this Court to note probable jurisdiction and to hear this appeal on an expedited basis.

Respectfully submitted,

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# Appendix

**UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**
**FOURTH DIVISION**

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**4-81 Civ. 414**

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SHARON LACOMB, JAMES A. WOOLLEY, and PHILLIP R. KRASS, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,

*Plaintiffs*,

v.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISHCHUK, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

*Defendants*,

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Intervenors*,

Seventy-Second Minnesota State Senate,

*Amicus Curiae*.

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**MEMORANDUM OPINION, ORDER, AND PLAN OF CONGRESSIONAL DISTRICTS**

This Court is faced with the difficult and sensitive task of reapportioning the State of Minnesota into eight congressional districts of equal size. We face this task because the State Legislature has failed to perform it.

We must base our decision on one of two conflicting principles. The first is to protect the incumbent Congressmen. That end is accomplished by making only those changes in present district lines necessary to correct population inequities.

The second alternative is to afford equal representation to all regions of the State. That end is accomplished by recognizing the fact that one-half of the State's residents live in metropolitan Minnesota and one-half live in out-state Minnesota.

We have chosen the second alternative and adopt a plan with four districts in the metropolitan area and four districts out-state ("four-four" plan). We do so because this plan is most consistent with State constitutional and statutory policy. It groups together peoples with like needs and concerns. To do otherwise is to disperse approximately 460,000 metropolitan residents into various districts dominated by strong outstate majorities. That number is nearly sufficient to constitute its own congressional district.

## I.

All parties, including the State of Minnesota, agree that the present apportionment of congressional districts [1] violates Article I, Section 2 of the United States Constitution. *Mahan* v. *Howell*, 410 U.S. 315 (1973). By Order dated September 15, 1981, the Court declared the present configuration of districts unconstitutional. They no longer equally apportion the population of Minnesota. Five of the districts underrepresent their residents by amounts that range from .79% to 9.92%. Those districts are the First, Second, Sixth, Seventh, and Eighth. Three of the districts overrepresent their residents by amounts that range from 7.08% to 16.38%. Those districts are the Third, Fourth, and Fifth.

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[1] The eight congressional districts of the State of Minnesota are currently apportioned pursuant to M.S.A. §§ 2.731-2.811. The apportionment of these districts followed the 1970 Census.

Throughout these proceedings, the Court has repeatedly emphasized the responsibility of the legislative and executive branches of the State for congressional redistricting. Article IV, Section 3 of the Minnesota Constitution states in pertinent part:

> At the first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts.

The State has been urged to meet that responsibility. It has been given more than an adequate opportunity to do so. As stated in *Reynolds* v. *Sims*, 377 U.S. 533, 586 (1964):

> reapportionment is primarily a matter for legislative consideration and determination * * * judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitution requisites in a timely fashion after having had an adequate opportunity to do so.

The State Legislature has failed to agree upon a plan of congressional redistricting. The House of Representatives has approved one plan and the Senate has approved a different plan. The differences between those plans are fundamental and unresolved. Consequently, the Court has been forced to undertake the task of redistricting.

Four redistricting plans have been submitted by the parties. The plaintiffs and the State Senate have each submitted one plan. The plan of the State Senate was passed by a partisan vote of the DFL majority. The Minnesota Independent Republican Congressional Delegation has submitted two plans. The first of those, Plan A, is a revision of the plan of the State House of Representatives. The second, Plan B, is an alternative submission prepared on behalf of the delegation. Both Plans A and B were prepared by the Director of Redistricting and Computer Services, Republican National Committee. Several additional plans were prepared by the Masters or individual members of the Court for study by the full Court. The Masters made no recommendations to the Court regarding which of the various plans they prepared best met constitutional requirements and the Court's adopted criteria.

The plans of the plaintiffs and the State Senate locate four of the eight congressional districts in metropolitan Minnesota. The seven-county metropolitan area constitutes 48.7% of the State's population. The remaining four districts are located in out-state Minnesota. Plan A of the Minnesota Independent Republican Congressional Delegation locates three districts in metropolitan Minnesota, one district is located out-state, and four districts combine out-state and metropolitan populations. In all instances the out-state population dominates the combined districts. [2] Plan B also locates three districts in metropolitan Minnesota, two districts are located out-state, and three districts combine out-state and metropolitan populations. Again, the out-state populations dominate the combined districts. [3]

I.

After careful study, we adopt a plan of congressional redistricting that establishes four metropolitan districts and four out-state districts. Each district is virtually equal in population and compact. We adopt the plan for the following reasons:

1. The plan recognizes the fact, after the population changes of the last decade, that essentially one-half of the people of Minnesota live in the metropolitan area and one-half live in out-state Minnesota.

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[2] Under Plan A the populations of the combined districts are as follow:

| | Total Population | Metro Population | Percent Metro |
|---|---|---|---|
| District 1 | 509,474 | 181,628 | 35.6 |
| District 2 | 509,520 | 166,310 | 32.6 |
| District 6 | 509,476 | 11,261 | 2.2 |
| District 8 | 509,498 | 98,209 | 19.3 |

[3] Under Plan B the populations of the combined districts are as follows:

| | Total Population | Metro Population | Percent Metro |
|---|---|---|---|
| District 1 | 509,534 | 181,688 | 35.6 |
| District 2 | 509,577 | 181,221 | 35.6 |
| District 8 | 509,501 | 98,212 | 19.3 |

2. The plan best advances the State's Constitutional policy that districts be "of convenient contiguous territory." Minnesota Constitution, article IV, Section 3. It does so by:

a. Preserving rather than splitting the natural grouping of the metropolitan residents in the formation of districts. It recognizes to the extent possible the community of interests that metropolitan residents share. It recognizes to the same extent the community of interests shared by the out-state residents.

b. Forming districts that are compact.

3. The plan best advances the State's statutory policy to recognize the metropolitan area as a distinct region of the State with unique governmental concerns. *See, e.g.* Minn. Laws 1957, Ch. 468 (creating a comprehensive planning agency for the region); Minn. Laws 1967, Ch. 892 (creating the metropolitan transit commission); Minn. Laws 1971, Ex. Sess. Ch. 24 (creating metropolitan revenue distribution); *Liftean* v. *Metropolitan Sports Facilities Commission*, 270 N.W. 2d 749, 756 (Minn. 1978) (Metropolitan Council is a political subdivision of the State); *City of New Brighton* v. *Metropolitan Council*, 306 Minn. 425, 428, 237 N.W.2d 620, 623 (1975) (same).

4. The plan is consistent with the principles employed in the apportionment of legislative districts in the companion case *Sharon La Comb et al.* v. *Joan Growe, Secretary of State of Minnesota, et al.*, Civ. 4-81-152. In both instances, every effort was made to preserve rather than dilute the effective representation of people with like needs and concerns. In the metropolitan area, we deliberately confined the legislative districts to the boundaries of the seven-county area wherever possible without breach of the other criteria adopted by the Court. Within that seven-county area, in turn, we made every effort to confine districts to municipal boundaries. The urban and suburban communities of interest were accorded strong recognition. The out-state area, consequently, was also accorded strong recognition as a broad community of interest within which the Court preserved county, township, and municipal boundaries to the maximum

extent possible. Neither the legislative nor the congressional plan was drawn to protect incumbents. [4]

5. The plan best meets the criteria adopted by the Court for congressional redistricting. [5]

Although we adopt a "four-four" plan, we do not accept the precise plans of either the plaintiffs or the State Senate. Neither plan minimizes population deviations from equality nor maximizes the compactness of districts. As stated in *White* v. *Weiser*, 412 U.S. 783, 790 (1973):

> The command of Article I, § 2, that representatives be chosen "by the People of the several States" was elucidated in Wesberry v. Sanders * * * to permit only those population variances among congressional districts that "are unavoidable despite a good-faith effort to achieve absolute equality[.]"

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[4] The few minor changes made in the boundaries of legislative districts to serve the interests of incumbents are detailed in note fourteen of the legislative plan filed this date. We repeat here that two incumbent Senators reside in each of eleven of the new senate districts and two incumbent Representatives reside in each of nineteen of the new house districts. In addition, there will be thirty open seats.

[5] By Order dated December 29, 1981, the Court adopted the following criteria:

1. The eight congressional districts shall be as nearly equal in population as possible. The maximum permissible deviation from population equality is plus or minus one-quarter of one percent (.25%) or 1,274 people.

2. The districts shall be single member, compact, and contiguous.

3. The districts shall preserve political subdivisions in the formation of districts.

4. The districts shall preserve the voting strength of minority population and, wherever possible, increase the probability of minority representation from areas of sizable concentrations of minority population.

The Court further ordered the ommunities of interest could be preserved in the formation of districts.

Moreover, both plans contain features apprarently designed to achieve political ends. [6]

The plan we adopt closely follows the "four-four" plan prepared by the Masters at the request of the full Court. It is faithful to the principle of affording equal representation to all regions of the State, it minimizes population deviations from equality, and it is compact. A map of the Court's plan is attached as Appendices B and C. A smaller map of the plan is attached to the opinion for the reader's convenience as Figure I. The controlling description of each district is contained in Appendix A. If there are any variances, the descriptions in Appendix A control.

The ideal congressional district is 509,496 people. Under the Court's plan, the maximum deviation from ideal or equality is 36 people. That is .00706%. This is better than any plan submitted by the parties. [7] The total population deviation is 76 and the average deviation is 9.5. Again, this is better than any plan submitted by the parties. [8]

The metropolitan districts are the Third, Fourth, Fifth and Sixth. With the exception of 64,129 people, principally from Wright and Sherburne Counties, they are wholly within the seven-county metropolitan area. To the extent these districts go outside of the metropolitan region, they include close contiguous areas to maximize compact-

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[6] For example, both plans would place Itasca and Koochiching county into the Seventh Congressional District.

[7] The maximum population deviation of the parties' plans is:

| | |
|---|---|
| Plaintiffs | 1,219 |
| State Senate | 1,188 |
| Plan A | 41 |
| Plan B | 110 |

[8] The total and average population deviations of the parties' plans is:

| | Total | Average |
|---|---|---|
| Plaintiffs | 5,098 | 637 |
| State Senate | 5,198 | 650 |
| Plan A | 138 | 17 |
| Plan B | 350 | 44 |

ness. It was necessary to include some out-state people because the metropolitan area is 1.3% short of being exactly 50% of the State's population. The Fourth and Fifth districts locate the principal cities of the State, Minneapolis and Saint Paul, in different districts, contrary to Plan B of the Independent Republican Congressional Delegation. The First, Second, Seventh, and Eighth districts are out-state in character.

The districts are compact. Because they separately group the metropolitan population and the out-state population, they are necessarily more compact than the plans of the Minnesota Independent Republican Congressional Delegation. Under the delegation's Plan A, seven of the eight districts draw on the metropolitan area. Consequently, districts extend from north of Grand Marais to Coon Rapids, from the Iowa border to Forest Lake and to Eagan, and from extreme southwestern Minnesota on the South Dakota and Iowa borders to Wayzata continuing north to East Side Township in Mille Lacs County. For the same reason, its Plan B is not as compact as reasonably possible. Districts extend from extreme northeastern Minnesota to White Bear Lake, from the Iowa border to Forest Lake and to Shorewood, and from extreme southwestern Minnesota to the top of Mille Lacs County. These districts neither comply with the Minnesota Constitutional mandate of districts of "convenient contiguous territory" nor the Court's criteria of compactness.

The proponents of Plans A and B argue for their adoption on the basis that they reflect State policy regarding congressional districts. *White* v. *Weiser*, 412 U.S. 783 (1973), is cited in support of the argument. In that case, the Supreme Court held:

> Just as a federal district court, in the context of legislative reapportionment, should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution, we hold that a district court should similarly honor state policies in the context of congressional reapportionment. *Id.* at 795.

The Court adopts its plan because it best honors discernible State policy.

It is the State's policy, expressed by constitutional provision, that districts be "of convenient contiguous territory." Minnesota Constitution, Article IV, Section 3. The word "convenient" is defined in *The Compact Edition of the Oxford English Dictionary* (Oxford University Press 1971) to mean:

1. Agreeing (in opinion); in accord.
2. Accordant, contiguous consonant.
3. Within easy reach; easily accessible.

It is defined in *Webster's New International Dictionary (Second Edition Unabridged)* to mean:

1. Fit or adopted; suitable; congruous; commensurate; appropriate; becoming; proper.

The Court's plan best serves that State policy. It groups persons with like needs and concerns by recognizing the communities of interest within the State. In addition, it is the most compact. Plans A and B admittedly divide metropolitan Minnesota into more districts than required by the population of the region. Also, they are not compact.

It is the State's policy, expressed by statutory provisions, to recognize the like needs and concerns of the residents of metropolitan Minnesota. The seven-county metropolitan area is a distinct region afforded unique treatment by the Legislature. The Court's plan preserves the effective representation of the residents of this area. Moreover, because of the statutory recognition of the region as a community of interest, the Court's configuration of congressional districts into convenient contiguous territory is pursuant to State Legislative guidance. Plans A and B admittedly are in conflict with these purposes.

The plans of the Minnesota Independent Republican Congressional Delegation have the effect of disenfranchising a substantial number of metropolitan residents from congressional representation whenever their interests conflict with those of out-state Minnesota. This occurs in the districts which combine metropolitan and out-state residents because, in every instance, the out-state population dominates. The extent of dominance ranges from 64.4% to 97.8%. Surely, the effective representation of the metropolita..

residents of the combined districts is diluted by Plans A and B or similar plans. The Court cannot adopt a plan with that consequence in the absence of a showing that it serves important state interests. The showing that has been made demonstrates that that consequence disserves important state interests.

Unfortunately, we do not have the benefit of a plan found appropriate by the elected members of the two houses of the State Legislature. We do not have a current expression of the State's political preferences regarding the complicated redistricting process. For those reasons, the situation presented is unlike the one faced by the Court in *White* v. *Weiser, supra*. Instead of a contemporaneous decision by the State which resolves the competing political demands of incumbents and political parties, we have two statements, one from each house of the Legislature, that sharply conflict. Accordingly, we look for and find our guidance in State policy free of the political overtones inherent in redistricting.

Minnesota's delegation of Independent Republican Congressmen would have us find the State's policy in the existing congressional district configurations. They ask us to make only minimal changes from the current district lines.[9] The delegation asserts it is the State's policy to leave smaller rural counties united and to split larger urban counties. They also argue that minimal change from current district configurations will avoid voter confusion.

Certainly, the current configuration of the congressional districts splits urban counties more than rural ones. That is an accurate observation of fact. There is nothing, however, to suggest that fact was a policy which guided the 1971 Legislature when it created those

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[9] In fact, the needed changes are not "minimal." In order to achieve equal apportionment, 27,578 people must be removed from the First District; 42,284 people must be removed from the Second District; 36,066 people must be added to the Third District; 49,679 people must be added to the Fourth District; 83,432 people must be added to the Fifth District; 44,778 people must be removed from the Sixth District; 4,023 people must be removed from the Seventh District; and 50,514 people must be removed from the Eighth District.

districts. The enacting statutes, M.S.A. §§ 2.731-2.811, give no support to the claim. [10] We do not base our decision on the political compromises of redistricting of past decades. We base it on the constitutional and statutory statements of State policy.

Minimizing voter confusion is, of course, desirable. Any redistricting plan presents the opportunity for some confusion. Consequently, the Court, like the proponents of Plans A and B, takes as the starting point the last configuration of congressional districts. The districts are modified only to serve State policy and satisfy the constitutional mandate that one person's vote shall equal another's.

The Court has been guided by and has applied the enduring, articulated policies of the State. Upon the Legislature's default on its responsibility, the Court has undertaken the redistricting task affirmatively and positively.

**III.**

We continue to enjoin the defendants, including Joan Growe, Secretary of State of Minnesota, from holding or conducting any future elections for Congress under any apportionment plan except that which we adopt today or a constitutional plan adopted after this date by the State of Minnesota.

We express our appreciation to the parties and intervenors, to the staff of the Minnesota Department of Land Management, to the Board of Regents of the University of Minnesota, to the Secretary of State and the Attorney General of the State of Minnesota, to Masters John S. Hoyt, Jr., Andrew R. Kislik, and Allen Hinderaker, and to Court assistants Ron Schultz and Rosemary McQuaid for the assistance and cooperation they gave to the Court in this matter.

Appropriate orders taxing costs against Joan Growe, Secretary of State, will be entered for Master's fees and expenses, assistants' fees

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[10] The Court's plan splits a minimum number of out-state counties. Seventy-three of the out-state counties remain intact and seven are split.

and expenses, printing expenses, computer expenses and miscellaneous supplies and equipment.

/s/ GERALD W. HEANEY
Gerald W. Heaney
Judge, United States
Court of Appeals, Eighth Circuit

/s/ HARRY H. MACLAUGHLIN
Harry H. MacLaughlin
Judge, United States District
Court, District of Minnesota

Dated: March 11, 1982

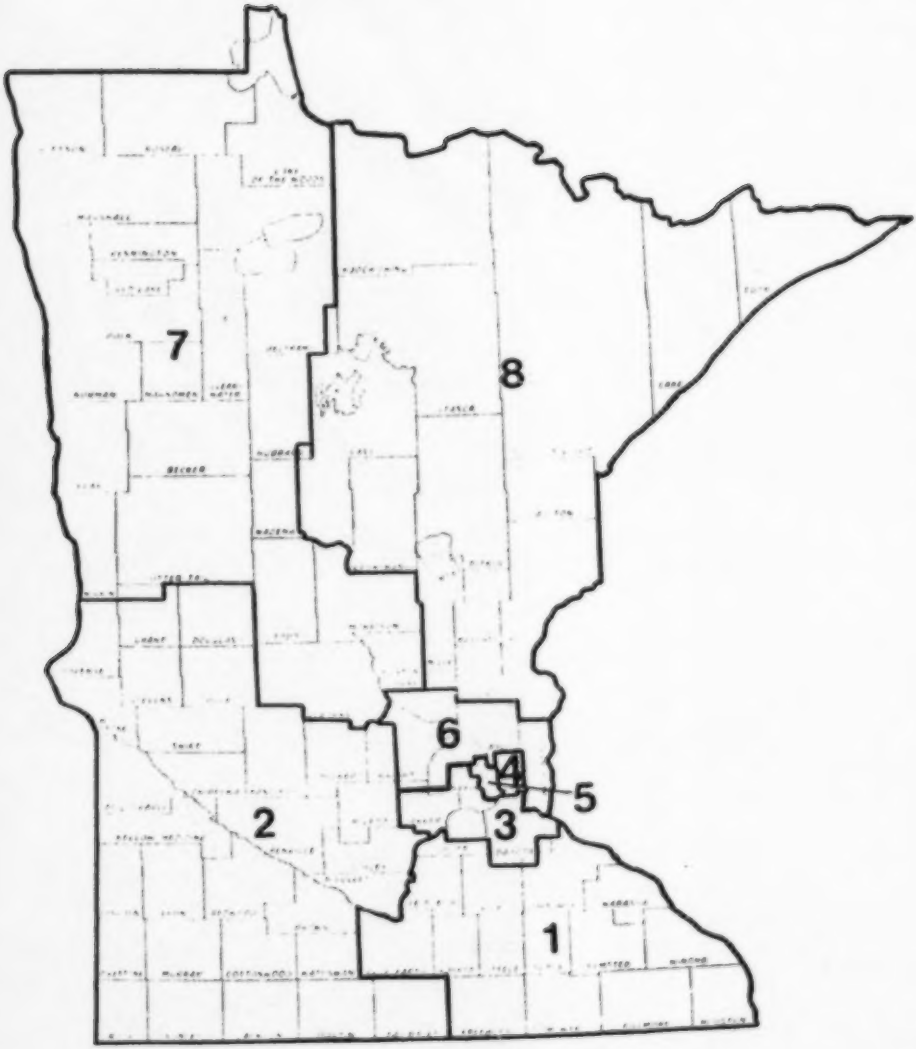


FIGURE I

**DISSENT**

Today a majority of this court adopts a plan of congressional reapportionment which totally alters the basic configuration of congressional districts in the State of Minnesota as it has existed for twenty years. The majority bases its decision on what it describes as this court's choice between the "two conflicting principles" of "protect[ing] incumbent Congressmen" or affording "equal representation to all regions of the State." I cannot concur with the majority's statement of this court's duty, with the majority's rationale, nor with its result.

Th responsibility of this court is to fashion and promulgate a congressional redistricting plan for the State of Minnesota that does the following:

1. Comports with the constitutional requirements of equal representation for each citizen and makes certain that the vote of one Minnesota citizen is equal to that of every other, United States Constitution, Article I, § 2;

2. Is consistent with the apportionment policy of the State of Minnesota, *White* v. *Weiser*, 412 U.S. 783 (1973); and

3. Conforms with the criteria for reapportionment as adopted by this court in its Order of December 29, 1981.

Fulfilling this responsibility does not, as the majority asserts, require a choice between "protect[ing] incumbent Congressmen" or affording "equal representation to all regions of the state."

The plan adopted by the majority unquestionably makes drastic and constitutionally unnecessary changes in the existing districts established by the Minnesota Legislature in 1971. The majority's plan creates four districts in the Twin Cities metropolitan area and four in the remainder of the state. The plan was chosen from among four plans submitted by the parties, a four-four plan created by the special masters, a minimal change plan[1] created by the special masters, and two plans created by Judge Gerald W. Heaney. When

[1] A minimal change plan makes only minor changes in the existing districts in order to achieve population equality.

compared with the plans submitted by the parties, the plan adopted most closely resembles the plan submitted by the DFL-controlled State Senate. Although its outstate boundaries closely correspond to the four-four plan prepared by the masters, it contains significant differences in the metropolitan area. For the reasons set forth more fully below, I respectfully dissent to the plan today by the majoirty and propose, as a better alternative, the masters' minimal change plan. [2]

Once the existing congressional apportionment plan was declared unconstitutional, this court unquestionably had broad power to fashion a constitutional plan; however, the remedial powers of an equity court are not unlimited. *Whitcomb* v. *Chavis*, 403 U.S 124, 161 (1971).

> Just as a federal district court, in the context of legislative reapportionment, should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution, we hold that a district court should similarly honor state policies in the context of congressional reapportionment. In fashioning a reapportionment plan or in choosing among plans, a district court should not pre-empt the legislative task nor "intrude upon state policy any more than necessary."

*White* v. *Weiser*, 412 U.S. at 795. Thus, the Supreme Court has made it clear that this court should adopt a reapportionment plan that respects state policy.

In *White* v. *Weiser*, the three-judge district court declared unconstitutional a Texas law (S.B.1.) providing for congressional redistricting based upon the 1970 census figures. The parties submitted two alternative plans for the district court to consider: Plan B, although cutting across more county lines, generally followed the district lines of S.B.1.; Plan C, using population as the only consideration, substantially disregarded the existing districts of S.B.1.

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[2] A description and maps of the masters' minimal change plan are attached in Appendices D, E and F.

The district court ordered the implementation of Plan C because it was more compact and contiguous.

The Supreme Court upheld the finding tht S.B.1. was unconstitutional but reversed the district court as to which alternative plan should have been adopted. The rationale of the Court is directly applicable in this case, and thus is quoted here at length.

> Plan B, as all parties concede, represented an attempt to adhere to the districting preferences of the state legislature while eliminating population variances. Indeed, Plan B achieved the goal of population equality to a greater extent than did Plan C. Despite the existence of Plan B, the District Court ordered implementation of Plan C, which, as conceded by all parties, ignored legislative districting policy and constructed districts solely on the basis of population considerations. The District Court erred in this choice. Given the alternatives, the court should not have imposed Plan C, with its very different political impact on the State. It should have implemented Plan B, which most clearly approximated the reapportionment plan of the state legislature, while satisfying constitutional requirements. The court said only that Plan C is "significantly more compact and contiguous" than Plan B. But both Plan B and Plan C feature contiguous districts, and, even if the districts in Plan C can be called more compact, the District Court's preferences do not override whatever state goals were embodied in S.B.1. and, derivatively, in Plan B. "The remedial powers of an equity court must be adequate to the task, but they are not unlimited. *Here the District Court erred in so broadly brushing aside state apportionment policy without solid constitutional or equitable grounds for doing so.*"

*White* v. *Weiser*, 412 U.S. at 796 (emphasis added).

Today the majority is also brushing aside state apportionment policy. Minnesota has had eight congressional districts for twenty years. The first congressional redistricting following the determination that Minnesota was entitled to eight districts occurred in 1961. *See* Laws 1961, 2d. ex. session, ch. 2, §§ 1-9. Following the 1970 census, the Minnesota Legislature adopted the second redistricting plan for the eight districts, *see* Laws, 1971 ch. 897, which is the plan that was in effect at the time this lawsuit was filed. Minn. Stat. §§ 2.73-2.82 (1980). Each of the two plans was passed by the

Minnesota House of Representatives and Senate and approved by the Governor. Neither was the subject of constituional challenge.

A comparison of the 1961 and 1971 plans shows great similarities.[3] Although modifications were made to reflect population shifts, the basic geographical makeup of the eight districts was maintained. It appears that the Minnesota Legislature followed existing lines wherever possible in creating the new districts in 1971.

A state apportionment policy to preserve existing congressional district lines can be readily derived from looking at three factors. First, the current congressional plan in effect at the time this lawsuit was filed was drafted by the legislature and is of the same configuration as has been in effect for 20 years. It stands as the legislature's most recent statement of policy on the subject of congressional districts. Second, the existing plan appears to have been drafted by the legislature in recognition of the previously existing districts. Finally, a minimal change plan has been recently passed by the DFL-controlled Minnesota House of Representatives with bipartisan support on a 104-24 vote.[4] *See Skolnick* v. *State Electoral Board of Illinois*, 336 F. Supp. 839, 846 (N.D. Ill. 1971) (the court should give deference to a redistricting plan passed by one chamber of the legislature with bipartisan support). These three factors taken together clearly demonstrate a state policy in congressional redistricting which, under the Supreme Court mandate in *White*, we must follow.

The rational behind limiting a court's equitable powers by the requirement that it not intrude upon state policy is to avoid even the appearance of arbitrariness or gerrymandering. In reapportionment, "the court's task is inevitably an exposed and sensitive one that must be accomplished circumspectly, and in a manner 'free from any taint of arbitrariness or discrimination.'" *Connor* v. *Finch*, 431 U.S. 407, 415 (1977).

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[3] See Figures 2 and 3 following the text of this opinion.

[4] The four-four plan submitted by the Senate-intervenor passed the Senate by a 40-23 vote. The vote, however, was along strict party lines with only two Independent Republicans voting in favor, one of whom did so to assure IR representation on any conference committee.

In this case, the majority of the court has chosen to adopt an apportionment plan that is radically different from any plan ever in effect in this state. Even assuming that its adoption was not politically motivated, the plan will in all likelihood have radical political ramifications. *See* C. Backstrom, L. Robins & S. Eller, *Issues in Gerrymandering: An Explanatory Measure of Partisan Gerrymandering Applied To Minnesota*, 62 Minn. L. Rev. 1121, 1131 (1978); *Connor* v. *Finch*, 431 U.S. at 430 (Blackmun, joined by Burger, concurring). Such a result from a judicial body is inappropriate when that which causes it is unnecessary.

The best way for this court to have limited it entanglement in the politics of congressional reapportionment, would have been to use existing congressional district lines in adopting a new plan. "Where there is an established policy of respecting political or natural boundaries in districting then . . . a court may best avoid any appearance of partisanship by using those boundaries as much as possible in its districting." *Id.*

The United States Supreme Court has reversed court ordered reapportionment plans that intruded upon an established state policy. *See, e.g., White* v. *Weiser*, 412 U.S. 783 (1973); *Sixty-Seventh Minnesota State Senate* v. *Beens*, 406 U.S. 187 (1972); *Whitcomb* v. *Chavis*, 403 U.S. 124 (1971). Ten years ago, the Supreme Court overturned this court's decision in *Beens* v. *Erdahl*, 336 F. Supp. 715 (D. Minn. 1972), reducing the size of the Minnesota Legislature in its court-ordered plan. The Supreme Court had no difficulty in discerning the state's policy as to the legislature's size and, because of that policy, held that this court was not justified in so drastically reducing the number of senators and representatives. *Sixty-Seventh Minnesota State Senate* v. *Beens*, 406 U.S. at 197.

In the case before us today, there similarly is no reason to make such a drastic change in the configuration of existing districts. The special masters created a minimal change plan which meets the adopted criteria but also respects existing district boundaries. [5] This plan has a minimal effect on the voters of this state in that it leaves all

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[5] See Figure 4 following the text of this opinion.

but approximately 300,000 of them in their current districts. The majority's plan, however, moves innumerable voters into different districts of entirely new configurations. The court could have avoided doing unnecessary violence to the heart of existing districts by adopting a minimal change plan such as the one prepared for the court by the masters. *See Maryland Citizens Committee For Fair Congressional Redistricting* v. *Tawes*, 253 F. Supp. 731, 734 (D. Md. 1966).

As set forth in my concurrence in the companion case involving legislative reapportionment, *LaComb* v. *Growe*, No. 4-81-152 (D. Minn. March 11, 1982), there are legitimate differences of opinion as to whether or not incumbent residency may properly be considered in devising any judicial reapportionment plan. However, in my view, its use is inappropriate where the court has chosen not to publicly adopt incumbent residency as a stated criteria.

In the legislative reapportionment case, my fellow judges, forming a majority of this court, attempted to preserve constituency-legislator relations by drawing "district lines to place incumbent legislators in districts consisting largely of their former districts, or to avoid contests between present incumbents." It is noteworthy that they have abandoned that standard in congressional redistricting. Indeed, in the congressional plan adopted by the majority, it appears that at least two out of eight election contests will be between incumbent congressmen. Thus, of eight incumbents, at least four will be involved in incumbency races. If the majority had used incumbent residency to minimize incumbency contests in congressional redistricting, as was done in legislative redistricting, a minimal change plan would have been the logical choice. A minimal change plan leaves each incumbent congressman in his existing district and does so without changing the constituency of the district to an appreciable degree. The plan adopted by the majority effectively destroys existing constituency-representative relations and results in "contests between present incumbents."

In the context of congressional reapportionment, the Supreme Court has intimated that in considering the constitutionality of a plan, it is proper to consider whether the plan promotes " 'constituency-

representative relations,' a policy frankly aimed at maintaining existing relationships between incumbent congressmen and their constituents and preserving the seniority the members of the state's delegation have achieved in the United States House of Representatives." *White* v. *Weiser*, 412 U.S. at 791. The majority's plan does neither; a minimal change plan does both.

The rationale advanced by the majority in support of its apportionment plan cannot withstand close analysis.

The first reason given for adopting a four-four plan is that such a plan "recognizes the fact, after the population changes of the last decade, that essentailly one-half of the people of Minnesota live in the metropolitan area and one-half live in outstate Minnesota." The majority correctly notes that the seven-county metropolitan area currently constitutes 48.7% of the state's population. It should also be noted that, in 1970, the seven-county metropolitan area consisted of 49.3% of the state's population. [6] Furthermore, in 1971, with 49.3% of the state's population in the metropolitan area, the state legislature did not deem it necessary to adopt a congressional reapportionment plan based upon four metropolitan districts and four outstate districts. Yet, today, the majority attempts to premise the judicial establishment of such a plan on the basis of a proportional metropolitan population which is actually less than that which existed in 1970.

The majority contends that its plan "best advances the State's Constitutional policy that districts be 'of convenient contiguous territory.'" That portion of Minnesota Constitution, Article IV, Section 3, which is cited in support of that reason applies, by its terms, to state legislative districts, not to congressional districts. [7]

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[6] Based on the 1970 census data, the combined population of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties was 1,874,612 and the population of the state was 3,806,103.

[7] Minnesota Constitution, Article IV, Section 3, reads as follows:

At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legistative districts. *Senators shall be chosen by single districts of convenient contiguous territo-*

The majority also attempts to find a state statutory policy to recognize the metropolitan area as a distinct region of the state for purposes of reapportionment. However, none of the authorities cited for that proposition relate in any way to congressional reapportionment. *See* Majority opinion at pp. 5-6. In addition, the statutory references are to laws which either predated or were adopted the same year as the congressional reapportionment by this state's legislature in 1971. Clearly, any weight that might have been attached to those laws as an expression of state apportionment policy was lost when the legislature itself did not recognize the metropolitan area in reapportioning the congressional districts. For these reasons, I remain convinced that the most clearly established state reapportionment policy is to follow existing congressional district lines to the fullest extent possible.

Finally, the majority contend that in adopting their plan "every effort was made to preserve rather than dilute the effective representation of people with like needs and concerns" as was done in the companion case, *LaComb* v. *Growe*, No. 4-81-152 (D. Minn. March 11, 1982). While I agree that such a rationale may be deserving of some weight in state legislative reapportionment, it is not so deserving in the context of congressional reapportionment,[8] since "congressional districts are not so intertwined and freighted with strictly local interests as are state legislative districts." *White* v. *Weiser*, 412 U.S. at 793.

By reason of the failure of the Minnesota Legislature to fulfill its constitutional responsibility to properly apportion this state's congressional districts, the task has fallen to the judiciary and specifically to this court. This shift of responsibility, however, does not grant to the judiciary an unrestricted license to desecrate existing boundaries and ignore established state policy. The plan today adopted by the

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*ry*. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series. [Emphasis added.]

[8] A "dichotomy between the two lines of cases has consistently been maintained." *Mahan* v. *Howell*, 410 U.S. 315, 322 (1973).

majority does just that. The result is a congressional reapportionment plan that is judicially unprecedented and constitutionally unnecessary.

I respectfully dissent.

/s/ DONALD D. ALSOP
Donald D. Alsop
United States District Judge

Dated: March 11, 1982.

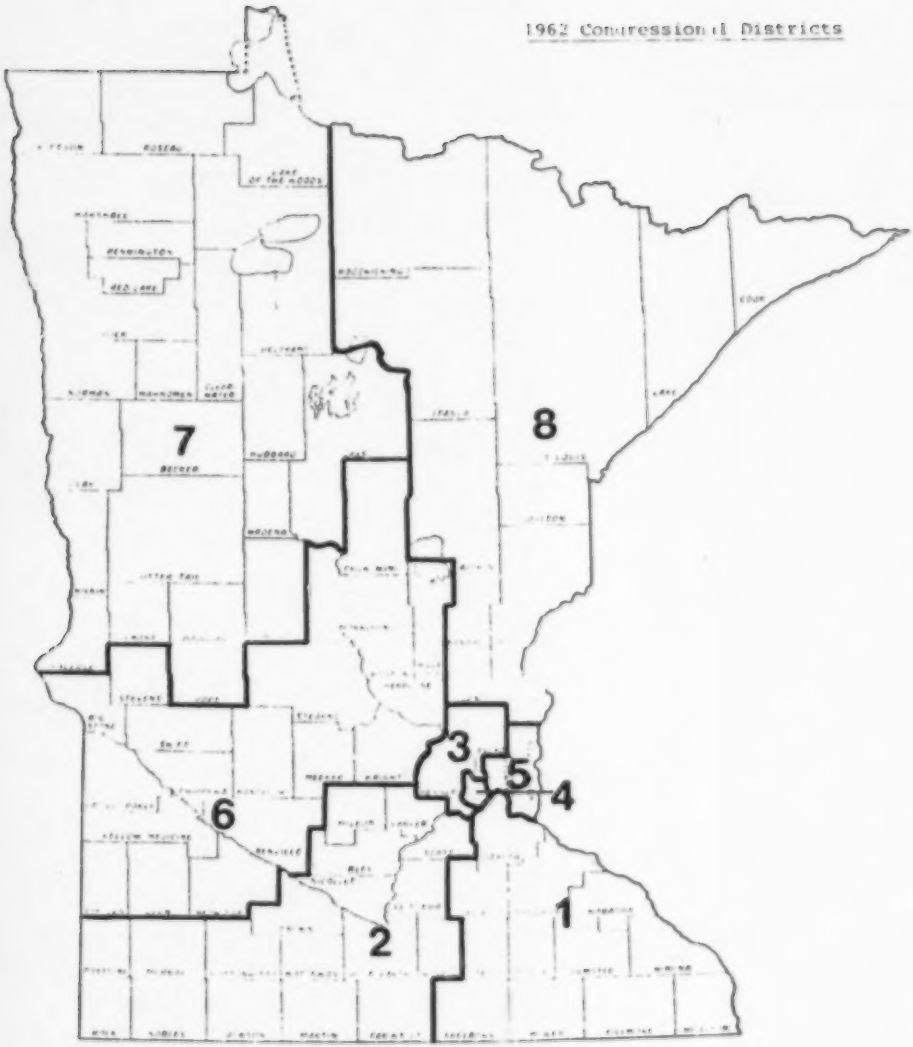


FIGURE 2

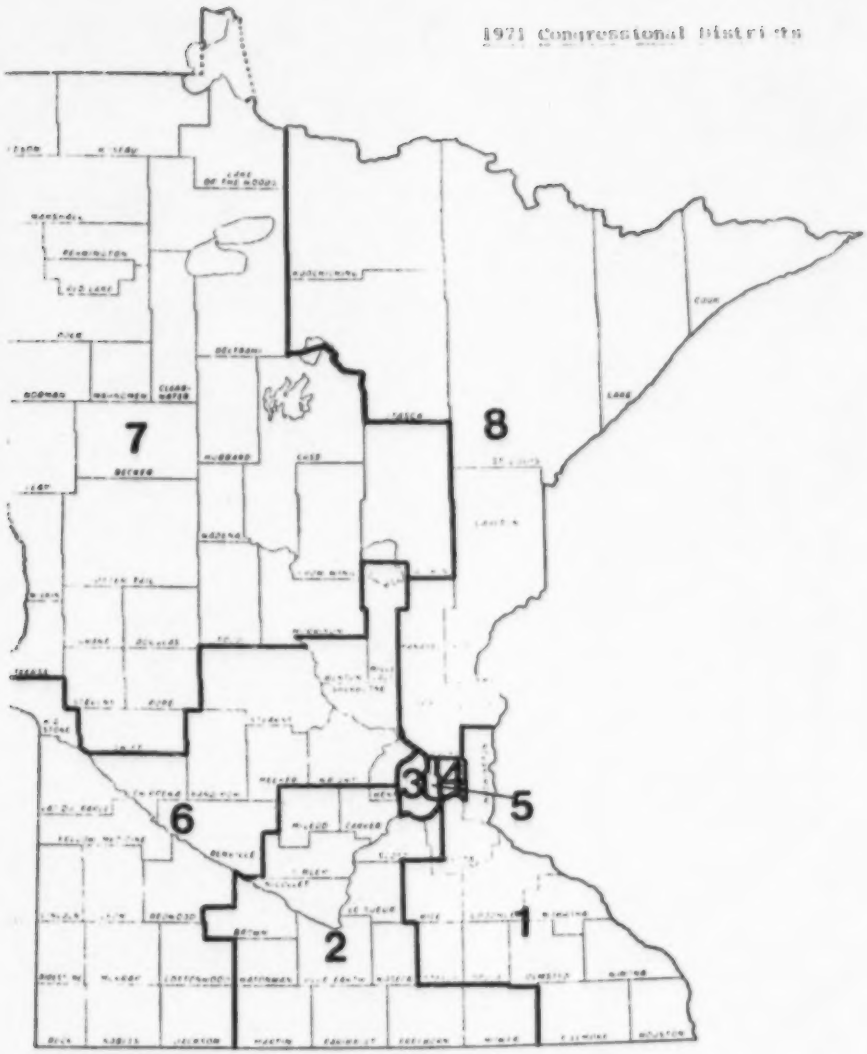


FIGURE 3

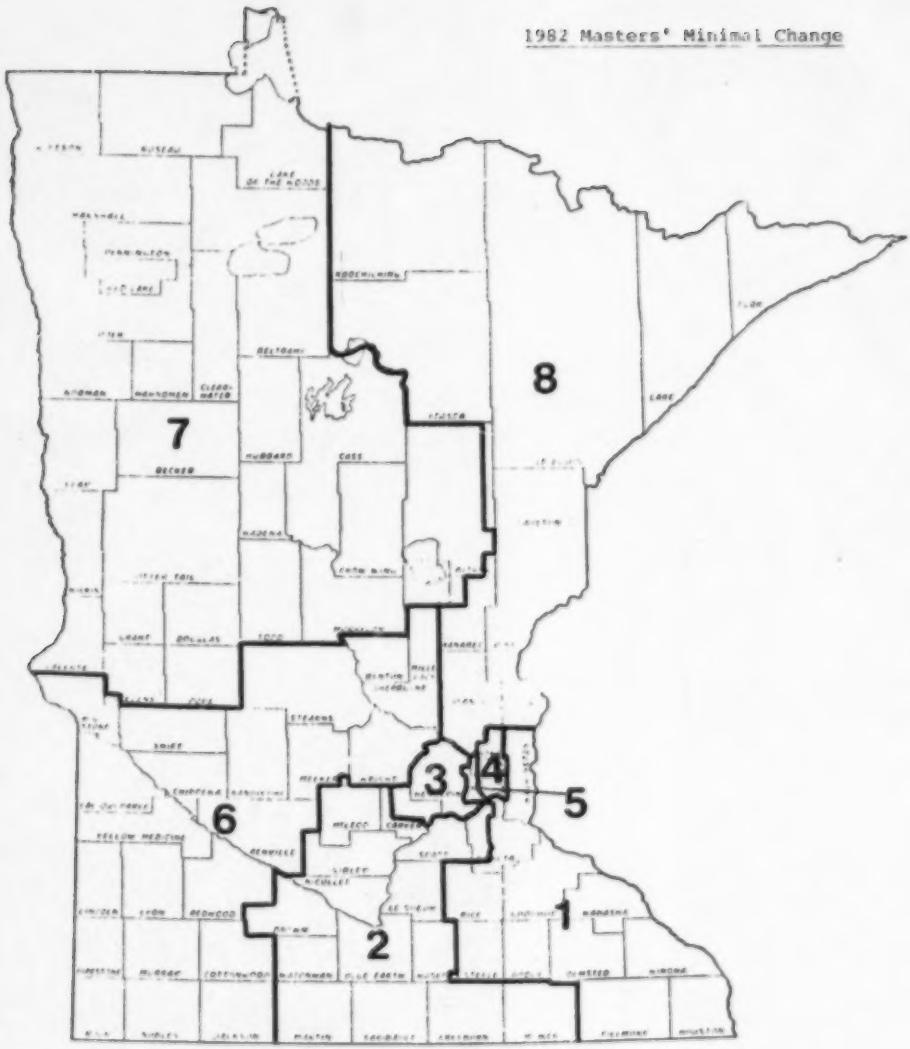


FIGURE 4

# APPENDIX A

**4-81-Civil 414**

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 1**

| | | |
|---|---|---|
| C007 | Blue Earth County | 52314 |
| C019 | Dakota County | |
| T190020 | Douglas township | 614 |
| T190110 | Miesville city | 179 |
| | COUNTY TOTAL | 793 |
| C020 | Dodge County | 14773 |
| C023 | Fillmore County | 21930 |
| C024 | Freeborn County | 36329 |
| C025 | Goodhue County | |
| T250005 | Bellechester city | 157 |
| T250010 | Belle Creek township | 518 |
| T250015 | Belvidere township | 522 |
| T250025 | Cannon Falls city | 2653 |
| T250030 | Cannon Falls township | 1373 |
| T250040 | Gheery Grove township | 435 |
| T250045 | Dennison city | 176 |
| T240050 | Featherstone township | 800 |
| T250055 | Florence township | 1123 |
| T250059 | Goodhue city | 657 |
| T250060 | Goodhue township | 576 |
| T250070 | Hay Creek township | 751 |
| T250075 | Holden township | 504 |
| T250079 | Kenyon city | 1529 |
| T250080 | Kenyon township | 472 |
| T250087 | Lake City city | 470 |
| T250090 | Leon township | 902 |
| T250095 | Minneola township | 684 |
| T250099 | Pine Island city | 1977 |
| T250100 | Pine Island township | 634 |
| T250110 | Red Wing city | 13736 |
| T250115 | Roscoe township | 735 |
| T250125 | Vasa township | 847 |
| T250130 | Wacouta township | 350 |
| T250134 | Wanamingo city | 717 |
| T250135 | Wanamingo township | 511 |
| T250145 | Warsaw township | 591 |
| T250150 | Welch township | 689 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 1 (Continued)**

| | | |
|---|---|---|
| T250160 | Zumbrota city | 2129 |
| T250161 | Zumbrota township | 613 |
| | COUNTY TOTAL | 37831 |
| C028 | Houston County | 18382 |
| C040 | Le Sueur County | |
| T400004 | Cleveland city | 699 |
| T400005 | Cleveland township | 569 |
| T400015 | Cordova township | 587 |
| T400020 | Derrynane township | 664 |
| T400024 | Elysian city | 450 |
| T400025 | Elysian township | 874 |
| T400035 | Heidelberg city | 102 |
| T400039 | Kasota city | 739 |
| T400040 | Kasota township | 1252 |
| T400049 | Kilkenny city | 177 |
| T400050 | Kilkenny township | 569 |
| T400060 | Lanesburgh township | 1433 |
| T400065 | Le Center city | 1967 |
| T400070 | Le Sueur city | 3763 |
| T400075 | Lexington township | 766 |
| T400080 | Montgomery city | 2349 |
| T400085 | Montgomery township | 737 |
| T400090 | New Prague city | 1054 |
| T400100 | Sharon township | 660 |
| T400105 | Tyrone township | 715 |
| T400110 | Washington township | 616 |
| T400115 | Waterville city | 1717 |
| T400120 | Waterville township | 599 |
| | COUNTY TOTAL | 23058 |
| C050 | Mower County | 40390 |
| C055 | Olmsted County | 92006 |
| C066 | Rice County | 46087 |
| C070 | Scott County | |
| T700005 | Belle Plaine city | 2754 |
| T700010 | Belle Plaine township | 765 |
| T700015 | Blakeley township | 515 |
| T700020 | Cedar Lake township | 1507 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 1 (Continued)**

| | | |
|---|---|---|
| T700035 | Elko city | 274 |
| T700045 | Helena township | 1215 |
| T700063 | New Market city | 286 |
| T700065 | New Market township | 1636 |
| T700070 | New Prague city | 1898 |
| T700075 | St. Lawrence township | 350 |
| | COUNTY TOTAL | 11200 |
| C074 | Steele County | 30328 |
| C079 | Wabasha County | 19335 |
| C081 | Waseca County | 18448 |
| C085 | Winona County | 46256 |
| | DISTRICT TOTAL | 509460 |
| | DEVIATION | –36 |
| | PERCENT DEVIATION | –0.01 |

## COURT REDISTRICTING 4-81-CIVIL 152
## CONGRESSIONAL DISTRICT 2

| | | |
|---|---|---|
| C06 | Big Stone County | 7716 |
| C008 | Brown County | 28645 |
| C012 | Chippewa County | 14941 |
| C017 | Cottonwood County | 14854 |
| C021 | Douglas County | 27839 |
| C022 | Faribault County | 19714 |
| C026 | Grant County | |
| T260005 | Ashby city | 486 |
| T260010 | Barrett city | 388 |
| T260015 | Delaware township | 172 |
| T260019 | Elbow Lake city | 1358 |
| T260020 | Elbow Lake township | 198 |
| T260030 | Elk Lake township | 302 |
| T260035 | Erdahl township | 356 |
| T260040 | Gorton township | 115 |
| T260045 | Herman city | 600 |
| T260050 | Hoffman city | 631 |
| T260055 | Land township | 272 |
| T260065 | Lien township | 188 |
| T260070 | Logan township | 174 |
| T260075 | Macsville township | 194 |
| T260080 | Norcross city | 124 |
| T260085 | North Ottawa township | 118 |
| T260090 | Pelican Lake township | 356 |
| T260100 | Roseville township | 212 |
| T260105 | Sanford township | 191 |
| | COUNTY TOTAL | 6435 |
| C032 | Jackson County | 13690 |
| Co34 | Kandiyohi County | 36763 |
| C037 | Lac qui Parle County | 10592 |
| C040 | Le Sueur County | |
| T400095 | Ottawa township | 376 |
| | COUNTY TOTAL | 376 |
| C041 | Lincoln County | 8207 |
| C042 | Lyon County | 25207 |
| C043 | McLeod County | 29657 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 2 (Continued)**

| | | |
|---|---|---|
| C046 | Martin County | 24687 |
| C047 | Meeker County | 20594 |
| C051 | Murray County | 11507 |
| C052 | Nicollet County | 26929 |
| C053 | Nobles County | 21840 |
| C059 | Pipestone County | 11690 |
| C061 | Pope County | 11657 |
| C064 | Redwood County | 19341 |
| C065 | Renville County | 20401 |
| C067 | Rock County | 10703 |
| C072 | Sibley County | 15448 |
| C075 | Stevens County | 11322 |
| C076 | Swift County | 12920 |
| C078 | Traverse County | 5542 |
| C083 | Watonwan County | 12361 |
| C086 | Wright County | |
| T860010 | Albion township | 1127 |
| T860015 | Annandale city | 1568 |
| T860039 | Cokato city | 2056 |
| T860040 | Cokato township | 947 |
| T860050 | Corinna township | 1831 |
| T860075 | French Lake township | 936 |
| T860085 | Howard Lake city | 1240 |
| T860105 | Middleville township | 1093 |
| T860145 | South Haven city | 205 |
| T860150 | Southside township | 1475 |
| T860155 | Stockholm township | 779 |
| T860160 | Victor township | 1012 |
| | COUNTY TOTAL | 14269 |
| C087 | Yellow Medicine County | 13653 |
| | DISTRICT TOTAL | 509500 |
| | DEVIATION | 4 |
| | PERCENT DEVIATION | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C010 | Carver County | | | | | | 37046 |
| C019 | Dakota County | | | | | | |
| T190002 | Apple Valley city | | | | | | 21818 |
| T190006 | Burnsville city | | | | | | 35674 |
| T190010 | Castle Rock township | | | | | | 1340 |
| T190015 | Coates city | | | | | | 207 |
| T190025 | Eagan city | | | | | | 20700 |
| T190030 | Empire township | | | | | | 1224 |
| T190035 | Eureka township | | | | | | 1268 |
| T190040 | Farmington city | | | | | | 4370 |
| T190045 | Greenvale township | | | | | | 641 |
| T190049 | Hampton city | | | | | | 299 |
| T190050 | Hampton township | | | | | | 848 |
| T190060 | Hastings city | | | | | | 12811 |
| T190071 | Inver Grove Heigts | | | | | | |
| P1900250 | InverGrovHgts P1 | | | | | | 1334 |
| P1900255 | InverGrovHgts P2 | | | | | | 3033 |
| P1900260 | InverGrovHgts P3 | | | | | | 3526 |
| P1900265 | InverGrovHgts P4 | | | | | | 2563 |
| P1900270 | InverGrovHgts P5 | | | | | | 1237 |
| P1900280 | InverGrovHgts P7 | | | | | | 2936 |
| | MCD TOTAL | | | | | | 14629 |
| T190080 | Lakeville city | | | | | | 14790 |
| T190095 | Marshan township | | | | | | 1655 |
| T190115 | New Trier city | | | | | | 115 |
| T190120 | Nininger township | | | | | | 774 |
| T190122 | Northfield city | | | | | | 13 |
| T190124 | Randolph city | | | | | | 351 |
| T190125 | Randolph township | | | | | | 385 |
| T190135 | Ravenna township | | | | | | 1683 |
| T190145 | Rosemount city | | | | | | 5083 |
| T190150 | Sciota township | | | | | | 242 |
| T190155 | South St. Paul city | | | | | | |
| P1900410 | Sth St. Paul W3P2 | | | | | | |
| B1911980 | CT | 604.02 | B | 4 | 0 | | 0 |
| B1911981 | CT | 604.02 | B | 5 | 0 | | 0 |
| B1911933 | CT | 604.02 | B | 213 | 0 | | 81 |
| B1911934 | CT | 604.02 | B | 214 | 0 | | 88 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3 (Continued)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| B1911935 | | CT | 604.02 | B | 215 | 0 | 62 |
| B1911936 | | CT | 604.02 | B | 216 | 0 | 75 |
| B1911937 | | CT | 604.02 | B | 301 | 0 | 72 |
| B1911978 | | CT | 604.02 | B | 905 | 0 | 215 |
| B1911979 | | CT | 604.02 | B | 908 | 0 | 0 |
| B1911917 | | CT | 604.02 | B | 909 | 0 | 77 |
| B1911982 | | CT | 604.02 | B | 909 | 0 | 0 |
| B1911983 | | CT | 604.02 | B | 909 | 0 | 0 |
| B1911984 | | CT | 604.02 | B | 910 | 0 | 26 |
| B1911985 | | CT | 604.02 | B | 911 | 0 | 17 |
| B1911986 | | CT | 604.02 | B | 912 | 0 | 57 |
| | PRECINCT TOTAL | | | | | | 770 |
| | MCD TOTAL | | | | | | 770 |
| T190164 | Vermillion city | | | | | | 438 |
| T190165 | Vermillion township | | | | | | 1070 |
| T190175 | Waterford township | | | | | | 486 |
| | COUNTY TOTAL | | | | | | 143684 |
| C025 | Goodhue County | | | | | | |
| CT250120 | Stanton township | | | | | | 918 |
| | COUNTY TOTAL | | | | | | 918 |
| C027 | Hennepin County | | | | | | |
| T270005 | Bloomington city | | | | | | |
| P2700010 | Bloomington P 12 | | | | | | 2697 |
| P2700015 | Bloomington P 13 | | | | | | 4995 |
| P2700020 | Bloomington P 15 | | | | | | 4200 |
| P2700025 | Bloomington P 16 | | | | | | 5050 |
| P2700030 | Bloomington P 19 | | | | | | |
| B2742790 | | CT | 256.01 | B | 1 | 0 | 0 |
| B2742786 | | CT | 256.01 | B | 109 | 0 | 32 |
| B2742787 | | CT | 256.01 | B | 110 | 0 | 63 |
| B2742788 | | CT | 256.01 | B | 111 | 0 | 178 |
| B2742789 | | CT | 256.01 | B | 111 | 0 | 0 |
| B2742791 | | CT | 256.01 | B | 111 | 0 | 0 |
| B2742792 | | CT | 256.01 | B | 112 | 0 | 41 |
| B2742793 | | CT | 256.01 | B | 113 | 0 | 79 |
| B2742794 | | CT | 256.01 | B | 120 | 0 | 73 |
| B2742796 | | CT | 256.01 | B | 125 | 0 | 86 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B2742798 | CT | 256.01 | B | 128 | 0 | 43 |
| B2742799 | CT | 256.01 | B | 231 | 0 | 38 |
| B2742800 | CT | 256.01 | B | 232 | 0 | 38 |
| B2742801 | CT | 256.01 | B | 233 | 0 | 0 |
| B2742802 | CT | 256.01 | B | 234 | 0 | 102 |
| B2742803 | CT | 256.01 | B | 235 | 0 | 0 |
| B2742804 | CT | 256.01 | B | 236 | 0 | 57 |
| B2742805 | CT | 256.01 | B | 237 | 0 | 24 |
| B2742806 | CT | 256.01 | B | 238 | 0 | 51 |
| B2742807 | CT | 256.01 | B | 239 | 0 | 73 |
| B2742808 | CT | 256.01 | B | 240 | 0 | 71 |
| B2742809 | CT | 256.01 | B | 241 | 0 | 55 |
| B2742902 | CT | 256.04 | B | 101 | 0 | 0 |
| B2742903 | CT | 256.04 | B | 102 | 0 | 0 |
| B2742904 | CT | 256.04 | B | 106 | 0 | 3 |
| B2742905 | CT | 256.04 | B | 107 | 0 | 0 |
| B2742906 | CT | 256.04 | B | 108 | 0 | 68 |
| B2742907 | CT | 256.04 | B | 109 | 0 | 37 |
| B2742908 | CT | 256.04 | B | 110 | 0 | 38 |
| B2742909 | CT | 256.04 | B | 127 | 0 | 65 |
| B2742910 | CT | 256.04 | B | 128 | 0 | 73 |
| B2742911 | CT | 256.04 | B | 129 | 0 | 99 |
| B2742912 | CT | 256.04 | B | 130 | 0 | 125 |
| B2742913 | CT | 256.04 | B | 131 | 0 | 49 |
| B2742914 | CT | 256.04 | B | 133 | 0 | 53 |
| B2742915 | CT | 256.04 | B | 201 | 0 | 0 |
| B2742916 | CT | 256.04 | B | 202 | 0 | 4 |
| B2742917 | CT | 256.04 | B | 203 | 0 | 291 |
| B2742918 | CT | 256.04 | B | 204 | 0 | 123 |
| B2742919 | CT | 256.04 | B | 205 | 0 | 45 |
| B2742920 | CT | 256.04 | B | 206 | 0 | 72 |
| B2742921 | CT | 256.04 | B | 207 | 0 | 0 |
| B2742922 | CT | 256.04 | B | 208 | 0 | 0 |
| B2742923 | CT | 256.04 | B | 301 | 0 | 93 |
| B2742924 | CT | 256.04 | B | 302 | 0 | 126 |
| B2742925 | CT | 256.04 | B | 303 | 0 | 53 |
| B2742926 | CT | 256.04 | B | 304 | 0 | 116 |
| B2742927 | CT | 256.04 | B | 305 | 0 | 70 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3 (Continued)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| B2742928 | CT | 256.04 | B | 401 | 0 | 166 |
| B2742929 | CT | 256.04 | B | 402 | 0 | 99 |
| B2742930 | CT | 256.04 | B | 403 | 0 | 92 |
| B2742931 | CT | 256.04 | B | 404 | 0 | 49 |
| B2742932 | CT | 256.04 | B | 405 | 0 | 91 |
| B2742933 | CT | 256.04 | B | 406 | 0 | 124 |
| | PRECINCT TOTAL | | | | | 3328 |
| P2700065 | Bloomington P 7 | | | | | 3911 |
| P2700070 | Bloomington P 8 | | | | | 2815 |
| P2700075 | Bloomington P 9 | | | | | 3329 |
| P2700080 | Blgntn P 10, 11, 14&2 | | | | | 13352 |
| P2700085 | Blgntn P 17 & 23 | | | | | 8130 |
| P2700090 | Blgntn Ps 18 & 2 | | | | | 6014 |
| | MCD TOTAL | | | | | 57821 |
| T270025 | Chanhassen city | | | | | 8 |
| T270035 | Crystal city | | | | | |
| P2700235 | Crystal W 1 P 2 | | | | | |
| B2730703 | CT | 209.02 | B | 214 | 0 | 256 |
| | PRECINCT TOTAL | | | | | 256 |
| | MCD TOTAL | | | | | 256 |
| T270056 | Eden Prairie city | | | | | 16263 |
| T270060 | Edina city | | | | | 46073 |
| T270070 | Golden Valley city | | | | | 22775 |
| T270095 | Hopkins city | | | | | 15336 |
| T270125 | Medicine Lake city | | | | | 419 |
| T270140 | Minnetonka city | | | | | 38683 |
| T270165 | New Hope city | | | | | 23087 |
| T270180 | Plymouth city | | | | | 31615 |
| T270215 | St. Louis Park city | | | | | 42931 |
| | COUNTY TOTAL | | | | | 295267 |
| C070 | Scott County | | | | | |
| T700025 | Credit River township | | | | | 2360 |
| T700050 | Jackson township | | | | | 1483 |
| T700055 | Jordan city | | | | | 2663 |
| T700060 | Louisville township | | | | | 813 |
| T700072 | Prior Lake city | | | | | 7284 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3 (Continued)**

| | | |
|---|---|---|
| T700080 | Sand Creek township | 1516 |
| T700082 | Savage city | 3954 |
| T700085 | Shakopee city | 9941 |
| T700090 | Spring Lake township | 2570 |
| | COUNTY TOTAL | 32584 |
| | DISTRICT TOTAL | 509499 |
| | DEVIATION | 3 |
| | PERCENT DEVIATION | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C019 | Dakota County | | | | | | |
| T190071 | Inver Grove Heights | | | | | | |
| T1900275 | Inver GrovHgts P 6 | | | | | | 2542 |
| | MCD TOTAL | | | | | | 2542 |
| T190090 | Lilydale city | | | | | | 417 |
| T190102 | Mendota city | | | | | | 219 |
| T190105 | Mendota Heights | | | | | | 7288 |
| T190155 | South St. Paul city | | | | | | |
| P1900380 | Sth St.Paul W1P1 | | | | | | 769 |
| P1900385 | Sth St.Paul W1P2 | | | | | | 3920 |
| P1900390 | Sth St.Paul W1P3 | | | | | | 2821 |
| P1900395 | S St.PaulW2P1&W3 | | | | | | 3927 |
| P1900400 | Sth St.Paul W2P2 | | | | | | 2923 |
| P1900405 | Sth St.Paul W2P3 | | | | | | 2384 |
| P1900410 | Sth St.Paul W3P2 | | | | | | |
| B1911918 | CT | 604.02 | B | 1 | 0 | | 0 |
| B1911919 | CT | 604.02 | B | 102 | 0 | | 0 |
| B1911920 | CT | 604.02 | B | 107 | 0 | | 57 |
| B1911921 | CT | 604.02 | B | 108 | 0 | | 71 |
| B1911922 | CT | 604.02 | B | 109 | 0 | | 71 |
| B1911923 | CT | 604.02 | B | 110 | 0 | | 0 |
| B1911924 | CT | 604.02 | B | 111 | 0 | | 84 |
| B1911925 | CT | 604.02 | B | 112 | 0 | | 113 |
| B1911926 | CT | 604.02 | B | 113 | 0 | | 25 |
| B1911927 | CT | 604.02 | B | 114 | 0 | | 63 |
| B1911928 | CT | 604.02 | B | 115 | 0 | | 59 |
| B1911929 | CT | 604.02 | B | 116 | 0 | | 106 |
| B1911967 | CT | 604.02 | B | 116 | 0 | | 0 |
| B1911930 | CT | 604.02 | B | 123 | 0 | | 58 |
| B1911931 | CT | 604.02 | B | 124 | 0 | | 0 |
| B1911932 | CT | 604.02 | B | 125 | 0 | | 335 |
| B1911938 | CT | 604.02 | B | 302 | 0 | | 71 |
| B1911939 | CT | 604.02 | B | 303 | 0 | | 85 |
| B1911940 | CT | 604.02 | B | 304 | 0 | | 30 |
| B1911941 | CT | 604.02 | B | 305 | 0 | | 72 |
| B1911942 | CT | 604.02 | B | 306 | 0 | | 74 |
| B1911943 | CT | 604.02 | B | 307 | 0 | | 86 |
| B1911944 | CT | 604.02 | B | 308 | 0 | | 79 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B1911945 | CT | 604.02 | B | 309 | 0 | 37 |
| B1911946 | CT | 604.02 | B | 310 | 0 | 77 |
| B1911947 | CT | 604.02 | B | 311 | 0 | 72 |
| B1911948 | CT | 604.02 | B | 312 | 0 | 40 |
| B1911949 | CT | 604.02 | B | 313 | 0 | 69 |
| B1911950 | CT | 604.02 | B | 314 | 0 | 63 |
| B1911951 | CT | 604.02 | B | 315 | 0 | 58 |
| B1911952 | CT | 604.02 | B | 316 | 0 | 65 |
| B1911953 | CT | 604.02 | B | 317 | 0 | 71 |
| B1911954 | CT | 604.02 | B | 401 | 0 | 57 |
| B1911955 | CT | 604.02 | B | 402 | 0 | 71 |
| B1911956 | CT | 604.02 | B | 403 | 0 | 73 |
| B1911957 | CT | 604.02 | B | 404 | 0 | 64 |
| B1911958 | CT | 604.02 | B | 405 | 0 | 65 |
| B1911959 | CT | 604.02 | B | 406 | 0 | 59 |
| B1911960 | CT | 604.02 | B | 407 | 0 | 62 |
| B1911961 | CT | 604.02 | B | 408 | 0 | 53 |
| B1911962 | CT | 604.02 | B | 409 | 0 | 52 |
| B1911963 | CT | 604.02 | B | 410 | 0 | 64 |
| B1911964 | CT | 604.02 | B | 411 | 0 | 101 |
| B1911965 | CT | 604.02 | B | 412 | 0 | 74 |
| B1911966 | CT | 604.02 | B | 413 | 0 | 33 |
| B1911968 | CT | 604.02 | B | 502 | 0 | 0 |
| B1911969 | CT | 604.02 | B | 503 | 0 | 235 |
| B1911970 | CT | 604.02 | B | 506 | 0 | 83 |
| B1911971 | CT | 604.02 | B | 507 | 0 | 68 |
| B1911972 | CT | 604.02 | B | 508 | 0 | 78 |
| B1911973 | CT | 604.02 | B | 509 | 0 | 56 |
| B1911974 | CT | 604.02 | B | 510 | 0 | 96 |
| B1911975 | CT | 604.02 | B | 511 | 0 | 65 |
| B1911976 | CT | 604.02 | B | 512 | 0 | 70 |
| B1911977 | CT | 604.02 | B | 513 | 0 | 51 |
| | PRECINCT TOTAL | | | | | 3721 |
| | MCD TOTAL | | | | | 20465 |
| T190160 | Sunfish Lake city | | | | | 344 |
| T190180 | West St. Paul city | | | | | 18527 |
| | COUNTY TOTAL | | | | | 49802 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C062 | Ramsey County | | | | | | |
| T620005 | Arden Hills city | | | | | | 0012 |
| T620010 | Blaine city | | | | | | 0 |
| T620015 | Falcon Heights city | | | | | | 5291 |
| T620020 | Gem Lake city | | | | | | 394 |
| T620025 | Lauderdale city | | | | | | 1985 |
| T620030 | Little Canada city | | | | | | 7102 |
| T620035 | Maplewood city | | | | | | 26990 |
| T620040 | Mounds View city | | | | | | 12593 |
| T620045 | New Brighton city | | | | | | 23269 |
| T620050 | North Oaks city | | | | | | 2846 |
| T620055 | North St. Paul city | | | | | | 11921 |
| T620060 | Roseville city | | | | | | 35820 |
| T620070 | St. Paul city | | | | | | 270230 |
| T620075 | Shoreview city | | | | | | 17300 |
| T620080 | Spring Lake Park | | | | | | 109 |
| T620085 | Vadnais Heights | | | | | | 5111 |
| T620092 | White Bear township | | | | | | 5921 |
| T620095 | White Bear Lake | | | | | | 22528 |
| | COUNTY TOTAL | | | | | | 457422 |
| C082 | Washington County | | | | | | |
| T820120 | Newport city | | | | | | |
| P8200195 | Newport Prec 1 | | | | | | |
| B8211591 | CT | 710.03 | B | 111 | 0 | | 33 |
| B8211592 | CT | 710.03 | B | 112 | 0 | | 70 |
| B8211593 | CT | 710.03 | B | 113 | 0 | | 154 |
| B8211595 | CT | 710.03 | B | 120 | 0 | | 7 |
| B8211596 | CT | 710.03 | B | 121 | 0 | | 2 |
| B8211597 | CT | 710.03 | B | 122 | 0 | | 12 |
| B8211598 | CT | 710.03 | B | 123 | 0 | | 31 |
| B8211600 | CT | 710.03 | B | 125 | 0 | | 10 |
| B8211601 | CT | 710.03 | B | 126 | 0 | | 7 |
| B8211602 | CT | 710.03 | B | 127 | 0 | | 0 |
| B8211603 | CT | 710.03 | B | 128 | 0 | | 26 |
| B8211604 | CT | 710.03 | B | 129 | 0 | | 48 |
| B8211644 | CT | 710.03 | B | 320 | 0 | | 0 |
| B8211646 | CT | 710.03 | B | 323 | 0 | | 46 |
| B8211648 | CT | 710.03 | B | 404 | 0 | | 40 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B8211649 | CT | 710.03 | B | 405 | 0 | 28 |
| B8211650 | CT | 710.03 | B | 406 | 0 | 31 |
| B8211651 | CT | 710.03 | B | 408 | 0 | 9 |
| B8211652 | CT | 710.03 | B | 409 | 0 | 39 |
| B8211653 | CT | 710.03 | B | 410 | 0 | 29 |
| B8211654 | CT | 710.03 | B | 411 | 0 | 50 |
| | PRECINCT TOTAL | | | | | 672 |
| P8200200 | Newport Prec 2 | | | | | |
| B8211582 | CT | 710.03 | B | 101 | 0 | 30 |
| B8211583 | CT | 710.03 | B | 102 | 0 | 15 |
| B8211584 | CT | 710.03 | B | 103 | 0 | 0 |
| B8211585 | CT | 710.03 | B | 104 | 0 | 23 |
| B8211586 | CT | 710.03 | B | 106 | 0 | 31 |
| B8211587 | CT | 710.03 | B | 107 | 0 | 25 |
| B8211588 | CT | 710.03 | B | 108 | 0 | 36 |
| B8211589 | CT | 710.03 | B | 109 | 0 | 70 |
| B8211594 | CT | 710.03 | B | 117 | 0 | 0 |
| B8211605 | CT | 710.03 | B | 130 | 0 | 1 |
| B8211606 | CT | 710.03 | B | 131 | 0 | 5 |
| B8211747 | CT | 710.03 | B | 322 | 0 | 6 |
| B8211655 | CT | 710.03 | B | 412 | 0 | 69 |
| B8211656 | CT | 710.03 | B | 413 | 0 | 66 |
| B8211657 | CT | 710.03 | B | 414 | 0 | 57 |
| B8211658 | CT | 710.03 | B | 415 | 0 | 23 |
| B8211659 | CT | 710.03 | B | 416 | 0 | 61 |
| B8211660 | CT | 710.03 | B | 417 | 0 | 49 |
| B8211661 | CT | 710.03 | B | 418 | 0 | 45 |
| B8211662 | CT | 710.03 | B | 419 | 0 | 3 |
| B8211663 | CT | 710.03 | B | 420 | 0 | 28 |
| B8211664 | CT | 710.03 | B | 421 | 0 | 21 |
| B8211665 | CT | 710.03 | B | 423 | 0 | 0 |
| B8211666 | CT | 710.03 | B | 424 | 0 | 23 |
| B8211667 | CT | 710.03 | B | 905 | 0 | 0 |
| B8211668 | CT | 710.03 | B | 906 | 0 | 0 |
| B8211669 | CT | 710.03 | B | 907 | 0 | 5 |
| B8211670 | CT | 710.03 | B | 908 | 0 | 18 |
| B8211676 | CT | 710.03 | B | 919 | 0 | 14 |
| B8211681 | CT | 710.03 | B | 928 | 0 | 66 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B8211682 | CT | 710.03 | B | 929 | 0 | 88 |
| B8211683 | CT | 710.03 | B | 930 | 0 | 110 |
| B8211684 | CT | 710.03 | B | 931 | 0 | 65 |
| B8211685 | CT | 710.03 | B | 932 | 0 | 528 |
| B8211686 | CT | 710.03 | B | 933 | 0 | 12 |
| B8211687 | CT | 710.03 | B | 934 | 0 | 0 |
| B8211688 | CT | 710.03 | B | 935 | 0 | 10 |
| | PRECINCT TOTAL | | | | | 1603 |
| | MCD TOTAL | | | | | 2275 |
| | COUNTY TOTAL | | | | | 2275 |
| | DISTRICT TOTAL | | | | | 509499 |
| | DEVIATION | | | | | 3 |
| | PERCENT DEVIATION | | | | | 0.00 |

## COURT REDISTRICTING 4-81-CIVIL 152
## CONGRESSIONAL DISTRICT 5

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C027 | Hennepin County | | | | | | T270005 |
| T270005 | Bloomington City | | | | | | |
| P2700005 | Bloomington P 1 | | | | | | 2097 |
| P2700030 | Bloomington P 19 | | | | | | |
| B2742784 | CT | 256.0 | B | 101 | 0 | | 0 |
| B2742785 | CT | 256.01 | B | 102 | 0 | | 0 |
| B2742795 | CT | 256.01 | B | 124 | 0 | | 253 |
| B2742797 | CT | 256.01 | B | 126 | 0 | | 0 |
| | PRECINCT TOTAL | | | | | | 253 |
| P2700035 | Bloomington P 2 | | | | | | 4958 |
| P2700040 | Bloomington P 21 | | | | | | 3204 |
| P2700045 | Bloomington P 3 | | | | | | 3683 |
| P2700050 | Bloomington P 4 | | | | | | 2705 |
| P2700055 | Bloomington P 5 | | | | | | 2640 |
| P2700060 | Bloomington P 6 | | | | | | 4470 |
| | MCD TOTAL | | | | | | 24010 |
| T270010 | Brooklyn Center | | | | | | 31230 |
| T270035 | Crystal City | | | | | | |
| P2700230 | Crystal W 1 P 1 | | | | | | 3519 |
| P2700235 | Crystal W 1 P 2 | | | | | | |
| B2730753 | CT | 210.01 | B | 212 | 0 | | 58 |
| B2730756 | CT | 210.01 | B | 215 | 0 | | 86 |
| B2730757 | CT | 210.01 | B | 216 | 0 | | 79 |
| B2730758 | CT | 210.01 | B | 218 | 0 | | 115 |
| B2730759 | CT | 210.01 | B | 219 | 0 | | 56 |
| B2730762 | CT | 210.01 | B | 301 | 0 | | 63 |
| B2730763 | CT | 210.01 | B | 302 | 0 | | 64 |
| B2730764 | CT | 210.01 | B | 303 | 0 | | 66 |
| B2730765 | CT | 210.01 | B | 304 | 0 | | 50 |
| B2730766 | CT | 210.01 | B | 305 | 0 | | 49 |
| B2730767 | CT | 210.01 | B | 306 | 0 | | 65 |
| B2730768 | CT | 210.01 | B | 307 | 0 | | 48 |
| B2730769 | CT | 210.01 | B | 308 | 0 | | 44 |
| B2730770 | CT | 210.01 | B | 312 | 0 | | 26 |
| B2730771 | CT | 210.01 | B | 313 | 0 | | 13 |
| B2730772 | CT | 210.01 | B | 314 | 0 | | 353 |
| B2730773 | CT | 210.01 | B | 315 | 0 | | 95 |
| B2730774 | CT | 210.01 | B | 316 | 0 | | 172 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 5 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B2730775 | CT | 210.01 | B | 317 | 0 | 87 |
| B2730776 | CT | 210.01 | B | 318 | 0 | 112 |
| B2730777 | CT | 210.01 | B | 319 | 0 | 109 |
| B2730778 | CT | 210.01 | B | 320 | 0 | 102 |
| B2730779 | CT | 210.01 | B | 321 | 0 | 75 |
| B2730780 | CT | 210.01 | B | 322 | 0 | 3 |
| B2730781 | CT | 210.01 | B | 323 | 0 | 0 |
| B2730782 | CT | 210.01 | B | 324 | 0 | 5 |
| B2730783 | CT | 210.01 | B | 325 | 0 | 129 |
| B2730784 | CT | 210.01 | B | 326 | 0 | 2 |
| B2730785 | CT | 210.01 | B | 327 | 0 | 468 |
| B2730786 | CT | 210.01 | B | 328 | 0 | 222 |
| B2730787 | CT | 210.01 | B | 329 | 0 | 50 |
| B2730788 | CT | 210.01 | B | 401 | 0 | 50 |
| B2730789 | CT | 210.01 | B | 402 | 0 | 88 |
| B2730790 | CT | 210.01 | B | 403 | 0 | 80 |
| B2730791 | CT | 210.01 | B | 404 | 0 | 14 |
| B2730792 | CT | 210.01 | B | 405 | 0 | 26 |
| B2730793 | CT | 210.01 | B | 406 | 0 | 132 |
| B2730794 | CT | 210.01 | B | 407 | 0 | 78 |
| B2730795 | CT | 210.01 | B | 408 | 0 | 113 |
| B2730796 | CT | 210.01 | B | 409 | 0 | 19 |
| B2730797 | CT | 210.01 | B | 410 | 0 | 142 |
| B2730798 | CT | 210.01 | B | 411 | 0 | 38 |
| B2730799 | CT | 210.01 | B | 412 | 0 | 64 |
| B2730800 | CT | 210.01 | B | 413 | 0 | 127 |
| B2730801 | CT | 210.01 | B | 414 | 0 | 58 |
| B2730802 | CT | 210.01 | B | 415 | 0 | 22 |
| B2730803 | CT | 210.01 | B | 416 | 0 | 74 |
| | PRECINCT TOTAL | | | | | 3991 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 6**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| T820082 | Lakeland Shores | | | | | | 171 |
| T820090 | Lake St. Croix B | | | | | | 1176 |
| T820095 | Landfall city | | | | | | 679 |
| T820105 | Mahtomedi city | | | | | | 3851 |
| T820110 | Marine on St. Cr. | | | | | | 543 |
| T820115 | May township | | | | | | 2076 |
| T820120 | Newport city | | | | | | |
| P8200195 | Newport Prec 1 | | | | | | |
| B8211599 | CT | 710.03 | B | 124 | 0 | | 21 |
| B8211590 | CT | 710.03 | B | 132 | 0 | | 0 |
| B8211608 | CT | 710.03 | B | 201 | 0 | | 45 |
| B8211609 | CT | 710.03 | B | 202 | 0 | | 18 |
| B8211610 | CT | 710.03 | B | 205 | 0 | | 9 |
| B8211611 | CT | 710.03 | B | 206 | 0 | | 8 |
| B8211612 | CT | 710.03 | B | 207 | 0 | | 9 |
| B8211613 | CT | 710.03 | B | 208 | 0 | | 6 |
| B8211614 | CT | 710.03 | B | 209 | 0 | | 35 |
| B8211615 | CT | 710.03 | B | 210 | 0 | | 37 |
| B8211616 | CT | 710.03 | B | 211 | 0 | | 32 |
| B8211617 | CT | 710.03 | B | 212 | 0 | | 20 |
| B8211618 | CT | 710.03 | B | 213 | 0 | | 11 |
| B8211619 | CT | 710.03 | B | 214 | 0 | | 7 |
| B8211620 | CT | 710.03 | B | 215 | 0 | | 12 |
| B8211621 | CT | 710.03 | B | 216 | 0 | | 12 |
| B8211622 | CT | 710.03 | B | 217 | 0 | | 10 |
| B8211623 | CT | 710.03 | B | 218 | 0 | | 55 |
| B8211624 | CT | 710.03 | B | 220 | 0 | | 60 |
| B8211625 | CT | 710.03 | B | 221 | 0 | | 58 |
| B8211626 | CT | 710.03 | B | 222 | 0 | | 0 |
| B8211627 | CT | 710.03 | B | 223 | 0 | | 27 |
| B8211628 | CT | 710.03 | B | 224 | 0 | | 6 |
| B8211629 | CT | 710.03 | B | 303 | 0 | | 1 |
| B8211630 | CT | 710.03 | B | 304 | 0 | | 15 |
| B8211631 | CT | 710.03 | B | 305 | 0 | | 16 |
| B8211632 | CT | 710.03 | B | 306 | 0 | | 12 |
| B8211633 | CT | 710.03 | B | 307 | 0 | | 14 |
| B8211634 | CT | 710.03 | B | 308 | 0 | | 9 |
| B8211635 | CT | 710.03 | B | 309 | 0 | | 14 |

**COURT REDISTRICING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 6 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B8211636 | CT | 710.03 | B | 310 | 0 | 2 |
| B8211637 | CT | 710.03 | B | 311 | 0 | 5 |
| B8211638 | CT | 710.03 | B | 312 | 0 | 7 |
| B8211639 | CT | 710.03 | B | 313 | 0 | 0 |
| B8211640 | CT | 710.03 | B | 314 | 0 | 18 |
| B8211641 | CT | 710.03 | B | 316 | 0 | 25 |
| B8211642 | CT | 710.03 | B | 317 | 0 | 19 |
| B8211643 | CT | 710.03 | B | 318 | 0 | 18 |
| B8211647 | CT | 710.03 | B | 401 | 0 | 63 |
| B8211671 | CT | 710.03 | B | 912 | 0 | 205 |
| B8211672 | CT | 710.03 | B | 913 | 0 | 64 |
| B8211673 | CT | 710.03 | B | 915 | 0 | 0 |
| B8211674 | CT | 710.03 | B | 916 | 0 | 0 |
| B8211675 | CT | 710.03 | B | 917 | 0 | 0 |
| B8211677 | CT | 710.03 | B | 922 | 0 | 4 |
| B8211678 | CT | 710.03 | B | 923 | 0 | 2 |
| B8211679 | CT | 710.03 | B | 924 | 0 | 4 |
| B8211680 | CT | 710.03 | B | 925 | 0 | 0 |
| | PRECINCT TOTAL | | | | | 1015 |
| P8200200 | Newport Prec 2 | | | | | |
| B8211575 | CT | 710.03 | B | 1 | 0 | 0 |
| B8211580 | CT | 710.03 | B | 2 | 0 | 0 |
| B8211581 | CT | 710.03 | B | 3 | 0 | 0 |
| B8211577 | CT | 710.03 | B | 149 | 0 | 0 |
| B8211578 | CT | 710.03 | B | 150 | 0 | 0 |
| B8211579 | CT | 710.03 | B | 151 | 0 | 33 |
| B8211645 | CT | 710.03 | B | 151 | 0 | 0 |
| B8211607 | CT | 710.03 | B | 161 | 0 | 0 |
| B8211576 | CT | 710.03 | B | 320 | 0 | 0 |
| | PRECINCT TOTAL | | | | | 33 |
| | MCD TOTAL | | | | | 1048 |
| T820125 | New Scandia township | | | | | 2858 |
| T820136 | Oakdale city | | | | | 12123 |
| T820145 | Oak Park Heights | | | | | 2591 |
| T820155 | Pine Springs city | | | | | 267 |
| T820160 | St. Marys Point | | | | | 348 |
| T820165 | St. Paul Park city | | | | | 4864 |

## COURT REDISTRICING 4-81-CIVIL 152
## CONGRESSIONAL DISTRICT 6 (Continued)

| | | |
|---|---|---|
| T820170 | Stillwater city | 12290 |
| T820175 | Stillwater township | 1599 |
| T820180 | West Lakeland township | 1318 |
| T820182 | White Bear Lake | 10 |
| T820185 | Willernie city | 654 |
| T820191 | Woodbury city | 10297 |
| | COUNTY TOTAL | 111296 |
| C086 | Wright County | |
| T860005 | Albertville city | 564 |
| T860019 | Buffalo city | 4560 |
| T860020 | Buffalo township | 1870 |
| T860030 | Chatham township | 1268 |
| T860033 | Clearwater city | 379 |
| T860035 | Clearwater township | 1153 |
| T860055 | Dayton city | 70 |
| T860060 | Delano city | 2480 |
| T860065 | Frankfort township | 2170 |
| T860070 | Franklin township | 2712 |
| T860080 | Hanover city | 399 |
| T860089 | Maple Lake city | 1132 |
| T860090 | Maple Lake township | 1718 |
| T860100 | Maryville township | 1944 |
| T860109 | Monticello city | 2830 |
| T860110 | Monticello township | 3588 |
| T860120 | Montrose city | 762 |
| T860125 | Otsego township | 4769 |
| T860129 | Rockford city | 2028 |
| T860130 | Rockford township | 3151 |
| T860137 | St. Michael city | 1519 |
| T860140 | Silver Creek township | 1778 |
| T860165 | Waverly city | 470 |
| T860170 | Woodland township | 1098 |
| | COUNTY TOTAL | 44412 |
| | DISTRICT TOTAL | 509505 |
| | DEVIATION | 9 |
| | PERCENT DEVIATION | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 7**

| | | |
|---|---|---|
| C003 | Becker County | 29336 |
| C004 | Beltrami County | |
| T040005 | Alaska township | 171 |
| T040010 | Battle township | 67 |
| T040015 | Bemidji city | 10949 |
| T040020 | Bemidji township | 2270 |
| T040025 | Benville township | 150 |
| T040035 | Blackduck city | 653 |
| T040040 | Buzzle township | 213 |
| T040045 | Cormant township | 220 |
| T040050 | Durand township | 158 |
| T040055 | Eckles township | 607 |
| T040060 | Frohn township | 918 |
| T040065 | Funkley city | 18 |
| T040070 | Grant Valley township | 868 |
| T040075 | Hagali township | 256 |
| T040080 | Hamre township | 31 |
| T040085 | Hines township | 575 |
| T040090 | Hornet township | 219 |
| T040095 | Jones township | 219 |
| T040099 | Kelliher city | 324 |
| T040100 | Kelliher township | 160 |
| T040110 | Lammers township | 386 |
| T040115 | Langor township | 182 |
| T040120 | Lee township | 54 |
| T040125 | Liberty township | 342 |
| T040127 | Lower Red Lake | 2855 |
| T040130 | Maple Ridge township | 117 |
| T040135 | Minnie township | 15 |
| T040145 | Nebish township | 292 |
| T040148 | North Beltrami | 40 |
| T040150 | Northern township | 3211 |
| T040155 | O'Brien township | 85 |
| T040160 | Port Hope township | 388 |
| T040165 | Quiring township | 67 |
| T040170 | Roosevelt township | 165 |
| T040175 | Shooks township | 228 |
| T040180 | Shotley township | 64 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 7 (Continued)**

| | | |
|---|---|---|
| T040181 | Shotley Brook | 18 |
| T040185 | Solway city | 89 |
| T040190 | Spruce Grove township | 64 |
| T040195 | Steenerson township | 52 |
| T040200 | Sugar Bush township | 121 |
| T040205 | Summit township | 205 |
| T040208 | Taylor township | 92 |
| T040210 | Ten Lake township | 496 |
| T040215 | Tenstrike city | 159 |
| T040220 | Turtle Lake township | 713 |
| T040224 | Turtle River city | 60 |
| T040225 | Turtle River township | 526 |
| T040231 | Upper Red Lake | 37 |
| T040233 | Waskish township | 133 |
| T040235 | Wilton city | 176 |
| T040240 | Woodrow township | 83 |
| | COUNTY TOTAL | 30561 |
| C005 | Benton County | 25187 |
| C014 | Clay County | 49327 |
| C015 | Clearwater County | 8761 |
| C026 | Grant County | |
| T260060 | Lawrence township | 127 |
| T260095 | Pomme de Terre | 212 |
| T260110 | Stony Brook township | 181 |
| T260115 | Wendell city | 216 |
| | COUNTY TOTAL | 736 |
| C029 | Hubbard County | |
| T290004 | Akeley city | 486 |
| T290005 | Akeley township | 339 |
| T290015 | Arago township | 385 |
| T290023 | Clay (unorg.) | 71 |
| T290025 | Clover township | 97 |
| T290030 | Crow Wing Lake | 191 |
| T290035 | Farden township | 651 |
| T290040 | Fern township | 152 |
| T290045 | Guthrie township | 404 |
| T290050 | Hart Lake township | 351 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 7 (Continued)**

| | | |
|---|---|---|
| T290055 | Helga township | 767 |
| T290060 | Hendrickson township | 198 |
| T290065 | Henrietta township | 1194 |
| T290070 | Hubbard township | 600 |
| T290075 | Lake Alice township | 91 |
| T290080 | Lake Emma township | 550 |
| T290085 | Lake George township | 319 |
| T290090 | Lake Hattie township | 84 |
| T290095 | Lakeport township | 436 |
| T290100 | Laporte city | 160 |
| T290105 | Mantrap township | 213 |
| T290109 | Nevis city | 332 |
| T290110 | Nevis township | 644 |
| T290120 | Park Rapids city | 2976 |
| T290125 | Rockwood township | 269 |
| T290130 | Schoolcraft township | 58 |
| T290133 | Steamboat River | 74 |
| T290135 | Straight River | 535 |
| T290140 | Thorpe township | 24 |
| T290145 | Todd township | 1070 |
| T290150 | White Oak township | 279 |
| | COUNTY TOTAL | 14000 |
| C035 | Kittson County | 6672 |
| C039 | Lake of the Woods County | 3764 |
| C044 | Mahnomen County | 5535 |
| C045 | Marshall County | 13027 |
| C049 | Morrison County | 29311 |
| C054 | Norman County | 9379 |
| C056 | Otter Tail County | 51937 |
| C057 | Pennington County | 15258 |
| C060 | Polk County | 34844 |
| C063 | Red Lake County | 5471 |
| C068 | Roseau County | 12574 |
| C071 | Sherburne County | |
| T710050 | Haven township | 1603 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 7 (Continued)**

| | | |
|---|---|---|
| T710070 | Palmer township | 1362 |
| T710075 | St. Cloud city | 4421 |
| T710080 | Santiago township | 631 |
| | COUNTY TOTAL | 8017 |
| C073 | Stearns County | 108161 |
| C077 | Todd County | 24991 |
| C080 | Wadena County | 14192 |
| C084 | Wilkin County | 8454 |
| | DISTRICT TOTAL | 509495 |
| | DEVIATION | -1 |
| | PERCENT DEVIATION | -0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 8**

| | | |
|---|---|---|
| C001 | Aitkin County | 13404 |
| C004 | Beltrami County | |
| T040030 | Birch township | 71 |
| T040038 | Brook Lake (unor) | 183 |
| T040140 | Moose Lake township | 167 |
| | COUNTY TOTAL | 421 |
| C009 | Carlton County | 29936 |
| C011 | Cass County | 21050 |
| C013 | Chisago County | 25717 |
| C016 | Cook County | 4092 |
| C018 | Crow Wing County | 41722 |
| C029 | Hubbard County | |
| T290020 | Badoura township | 98 |
| | COUNTY TOTAL | 98 |
| C030 | Isanti County | 23600 |
| C031 | Itasca County | 43069 |
| C033 | Kanabec County | 12161 |
| C036 | Koochiching County | 17571 |
| C038 | Lake County | 13043 |
| C048 | Mille Lacs County | 18430 |
| C058 | Pine County | 19871 |
| C069 | St. Louis County | 222229 |
| C071 | Sherburne County | |
| T710005 | Baldwin township | 2412 |
| T710030 | Blue Hill township | 678 |
| T710072 | Princeton city | 2 |
| | COUNTY TOTAL | 3092 |
| | DISTRICT TOTAL | 509506 |
| | DEVIATION | 10 |
| | PERCENT DEVIATION | 0.00 |

## COURT REDISTRICTING 4-81-CIVIL 152
## REPORT SUMMARY

**CONGRESSIONAL DISTRICT PLAN** **NUMBER OF DISTRICT — 8**

| DISTRICT NAME | TOTAL POPULATION | DEVIATION | PERCENT DEVIATION |
|---|---|---|---|
| 1 | 509460 | -36 | -0.01 |
| 2 | 509500 | 4 | 0.00 |
| 3 | 509499 | 3 | 0.00 |
| 4 | 509499 | 3 | 0.00 |
| 5 | 509506 | 10 | 0.00 |
| 6 | 509505 | 9 | 0.00 |
| 7 | 509495 | - 1 | -0.00 |
| 8 | 509506 | 10 | 0.00 |
| STATE TOTAL | 4075970 | | |

MEAN DEVIATION IS 9

MEAN PERCENT DEVIATION IS 0.00

# APPENDIX D

**4-81-Civil 414**

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 1**

| | | |
|---|---|---|
| C019 | Dakota County | |
| T190010 | Castle Rock township | 1340 |
| T190015 | Coates city | 207 |
| T190020 | Douglas township | 614 |
| T190030 | Empire township | 1224 |
| T190045 | Greenvale township | 641 |
| T190049 | Hampton city | 299 |
| T190050 | Hampton township | 848 |
| T190060 | Hastings city | 12811 |
| T190071 | Inver Grove Reig | 17171 |
| T190090 | Lilydale city | 417 |
| T190095 | Marshan township | 1655 |
| T190102 | Mendota city | 219 |
| T190105 | Mendota Heights | 7288 |
| T190110 | Miesville city | 179 |
| T190115 | New Trier city | 115 |
| T190120 | Nininger township | 774 |
| T190122 | Northfield city | 13 |
| T190124 | Randolph city | 351 |
| T190125 | Randolph township | 385 |
| T190135 | Ravenna township | 1683 |
| T190145 | Rosemount city | 5083 |
| T190150 | Sciota township | 242 |
| T190155 | South St. Paul city | 21235 |
| T190160 | Sunfish Lake city | 344 |
| T190164 | Vermillion city | 438 |
| T190165 | Vermillion township | 1070 |
| T190175 | Waterford township | 486 |
| T190180 | West St. Paul city | 18527 |
| | COUNTY TOTAL | 95659 |
| C020 | Dodge County | 14773 |
| C023 | Fillmore County | 21930 |
| C025 | Goodhue County | 38749 |
| C028 | Houston County | 18382 |
| C055 | Olmsted County | 92006 |
| C066 | Rice County | 46087 |

## COURT REDISTRICTING 4-81-CIVIL 152
## CONGRESSIONAL DISTRICT 1 (Continued)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C074 | Steele County | | | | | | |
| T740014 | Blooming Prairie | | | | | | 1969 |
| T740015 | Blooming Prairie | | | | | | 541 |
| T740065 | Merton township | | | | | | 427 |
| | COUNTY TOTAL | | | | | | 2937 |
| C079 | Wabasha County | | | | | | 19335 |
| C082 | Washington County | | | | | | |
| T820010 | Afton city | | | | | | 2550 |
| T820015 | Bayport city | | | | | | 2932 |
| T820020 | Baytown township | | | | | | 851 |
| T820025 | Birchwood Villag | | | | | | 1059 |
| T820030 | Cottage Grove city | | | | | | 18994 |
| T820035 | Dellwood city | | | | | | 751 |
| T820040 | Denmark township | | | | | | 1140 |
| T820049 | Forest Lake city | | | | | | 4596 |
| T820050 | Forest Lake township | | | | | | 5331 |
| T820060 | Grant township | | | | | | 3083 |
| T820065 | Grey Cloud Islan | | | | | | 351 |
| T820068 | Hastings city | | | | | | 16 |
| T820070 | Hugo city | | | | | | |
| P8200130 | Hugo Prec 1 | | | | | | |
| B8210221 | CT | 702.02 | B | 301 | 0 | | 25 |
| B8210222 | CT | 702.02 | B | 302 | 0 | | 0 |
| B8210224 | CT | 702.02 | B | 304 | 0 | | 17 |
| B8210225 | CT | 702.02 | B | 305 | 0 | | 30 |
| B8210226 | CT | 702.02 | B | 306 | 0 | | 13 |
| B8210245 | CT | 702.02 | B | 703 | 0 | | 50 |
| B8210248 | CT | 702.02 | B | 706 | 0 | | 21 |
| B8210236 | CT | 702.02 | B | 801 | 0 | | 245 |
| B8210237 | CT | 702.02 | B | 802 | 0 | | 41 |
| B8210238 | CT | 702.02 | B | 803 | 0 | | 47 |
| B8230239 | CT | 702.02 | B | 804 | 0 | | 33 |
| B8210240 | CT | 702.02 | B | 805 | 0 | | 64 |
| B8210241 | CT | 702.02 | B | 806 | 0 | | 45 |
| B8210242 | CT | 702.02 | B | 807 | 0 | | 0 |
| B8210227 | CT | 702.02 | B | 901 | 0 | | 0 |
| B8210228 | CT | 702.02 | B | 902 | 0 | | 134 |
| B8210229 | CT | 702.02 | B | 903 | 0 | | 38 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 1 (Continued)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| B8210230 | CT | 702.02 | B | 904 | 0 | | 10 |
| B8210231 | CT | 702.02 | B | 905 | 0 | | 0 |
| B8210232 | CT | 702.02 | B | 906 | 0 | | 57 |
| B8210233 | CT | 702.02 | B | 907 | 0 | | 180 |
| B8210234 | CT | 702.02 | B | 908 | 0 | | 44 |
| B8210235 | CT | 702.02 | B | 909 | 0 | | 0 |
| | PRECINCT TOTAL | | | | | | 1094 |
| P8200135 | Hugo Prec 2 | | | | | | 1356 |
| P8200140 | Hugo Prec 3 | | | | | | 1155 |
| | MCD TOTAL | | | | | | 3605 |
| T820075 | Lake Elmo city | | | | | | 5296 |
| T820080 | Lakeland city | | | | | | 1812 |
| T820082 | Lakeland Shores | | | | | | 171 |
| T820090 | Lake St. Croix B | | | | | | 1176 |
| T820095 | Landfall city | | | | | | 679 |
| T820105 | Mahtomedi city | | | | | | 3851 |
| T820110 | Marine on St. Cr | | | | | | 543 |
| T820115 | May township | | | | | | 2076 |
| T820120 | Newport city | | | | | | 3323 |
| T820125 | New Scandia township | | | | | | 2858 |
| T820136 | Oakdale city | | | | | | 12123 |
| T820145 | Oak Park Heights | | | | | | 2591 |
| T820155 | Pine Springs city | | | | | | 267 |
| T820160 | St. Marys Point | | | | | | 348 |
| T820165 | St. Paul Park city | | | | | | 4864 |
| T820170 | Stillwater city | | | | | | 12290 |
| T820175 | Stillwater township | | | | | | 1599 |
| T820180 | West Lakeland township | | | | | | 1318 |
| T820182 | White Bear Lake | | | | | | 10 |
| T820185 | Willernie city | | | | | | 654 |
| T820191 | Woodbury city | | | | | | 10297 |
| | COUNTY TOTAL | | | | | | 113405 |
| C085 | Winona County | | | | | | 46256 |
| | DISTRICT TOTAL | | | | | | 509519 |
| | DEVIATION | | | | | | 23 |
| | PERCENT DEVIATION | | | | | | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 2**

| | | |
|---|---|---|
| C007 | Blue Earth County | 523124 |
| C008 | Brown County | 28645 |
| C010 | Carver County | |
| T100005 | Benton township | 939 |
| T100015 | Camden township | 898 |
| T100020 | Carver city | 642 |
| T100045 | Cologne city | 545 |
| T100050 | Dahlgren township | 1225 |
| T100055 | Hamburg city | 475 |
| T200060 | Hancock township | 391 |
| T100065 | Hollywood township | 1100 |
| T100080 | New Germany city | 347 |
| T100085 | Norwood city | 1219 |
| T100090 | San Francisco township | 650 |
| T100125 | Young America city | 1237 |
| T100126 | Young America township | 952 |
| | COUNTY TOTAL | 10620 |
| C019 | Dakota County | |
| T190002 | Apple Valley city | 21818 |
| T190006 | Burnsville city | 35674 |
| T190025 | Eagan city | 20700 |
| T190035 | Eureka township | 1268 |
| T190040 | Farmington city | 4370 |
| T190080 | Lakeville city | 14790 |
| | COUNTY TOTAL | 98620 |
| C022 | Faribault County | 19714 |
| C024 | Freeborn County | 36329 |
| C040 | Le Sueur County | 23434 |
| C043 | McLeod County | 29657 |
| C046 | Martin County | 24687 |
| C047 | Meeker County | |
| T470020 | Collinwood township | 735 |
| | COUNTY TOTAL | 735 |
| C050 | Mower County | 40390 |
| C052 | Nicollet County | 26929 |
| C070 | Scott County | 43784 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 2 (Continued)**

| | | |
|---|---|---|
| C072 | Sibley County | 15448 |
| C074 | Steele County | |
| T740005 | Aurora township | 739 |
| T740010 | Berlin township | 570 |
| T740025 | Clinton Falls township | 486 |
| T740030 | Deerfield township | 600 |
| T740035 | Ellendale city | 555 |
| T740040 | Havana township | 677 |
| T740045 | Lemond township | 551 |
| T740049 | Medford city | 775 |
| T740050 | Medford township | 515 |
| T740060 | Meriden township | 719 |
| T740070 | Owatonna city | 18632 |
| T740075 | Owatonna township | 1087 |
| T740080 | Somerset township | 905 |
| T740085 | Summit township | 580 |
| | COUNTY TOTAL | 27391 |
| C081 | Waseca County | 18448 |
| C083 | Watonwan County | 12361 |
| | DISTRICT TOTAL | 509506 |
| | DEVIATION | 10 |
| | PERCENT DEVIATION | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3**

| | | |
|---|---|---|
| C010 | Carver County | |
| T1000030 | Chanhassen city | 6351 |
| T10035 | Chaska city | 8346 |
| T100040 | Chaska township | 205 |
| T100070 | Laketown township | 2424 |
| T100075 | Mayer city | 388 |
| T100095 | Victoria city | 1425 |
| T100100 | Waconia city | 2638 |
| T100105 | Waconia township | 1402 |
| T100109 | Watertown city | 1818 |
| T100110 | Watertown township | 1429 |
| | COUNTY TOTAL | 26426 |
| C027 | Hennepin County | |
| T270005 | Bloomington city | 81831 |
| T270015 | Brooklyn Park city | 43332 |
| T270025 | Champlin city | 9006 |
| T270026 | Chanhassen city | 8 |
| T270030 | Corcoran city | 4252 |
| T270035 | Crystal city | 25543 |
| T270045 | Dayton city | 4000 |
| T270050 | Deephaven city | 3716 |
| T270056 | Eden Prairie city | 16263 |
| T270060 | Edina city | 46073 |
| T270065 | Excelsior city | 2523 |
| T270075 | Golden Valley city | 22775 |
| T270075 | Greenfield | 1391 |
| T270080 | Greenwood city | 653 |
| T270085 | Hanover city | 248 |
| T270090 | Hassan township | 1766 |
| T270095 | Hopkins city | 15336 |
| T270100 | Independence city | 2640 |
| T207015 | Long Lake city | 1747 |
| T270110 | Loretto city | 297 |
| T270115 | Maple Grove city | 20525 |
| T270120 | Maple Plain city | 1421 |
| T270125 | Medicine Lake city | 419 |
| T270130 | Medina city | 2623 |
| T270140 | Minnetonka city | 38683 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 3 (Continued)**

| | | |
|---|---|---|
| T270143 | Minnetonka Beach | 575 |
| T270151 | Minnetrista city | 3236 |
| T270160 | Mound city | 9280 |
| T271065 | New Hope city | 23087 |
| T270170 | Orono city | 6845 |
| T271075 | Osseo city | 2974 |
| T270180 | Plymouth city | 31615 |
| T270190 | Robbinsdale city | |
| P2701890 | Robinsdal P 1-1 | 1956 |
| | MDC TOTAL | 1956 |
| T270195 | Rockford city | 380 |
| T270200 | Rogers city | 652 |
| T270210 | St. Bonifacius city | 857 |
| T270215 | St. Louis Park city | 42931 |
| T270220 | Shorewood city | 4646 |
| T270225 | Spring Park city | 1465 |
| T270230 | Tonka Bay city | 1354 |
| T270235 | Wayzata city | 3621 |
| T270240 | Woodland city | 526 |
| | COUNTY TOTAL | 480371 |
| | DISTRICT TOTAL | 509497 |
| | DEVIATION | 1 |
| | PERCENT DEVIATION | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C002 | Anoka County | | | | | | |
| T020020 | Blaine city | | | | | | 28558 |
| T020030 | Centerville city | | | | | | 734 |
| T020035 | Circle Pines city | | | | | | 3321 |
| T020045 | Columbus township | | | | | | 3232 |
| T020054 | Ham Lake city | | | | | | |
| P0200305 | Ham Lake Prec 2 | | | | | | |
| B0200253 | CT | 502.09 | B | 418 | 0 | | 301 |
| | PRECINCT TOTAL | | | | | | 301 |
| | MDC TOTAL | | | | | | 301 |
| T020075 | Lexington city | | | | | | 2150 |
| T020080 | Lino Lakes city | | | | | | 4966 |
| T020110 | Spring Lake Park | | | | | | 6368 |
| | COUNTY TOTAL | | | | | | 49630 |
| C062 | Ramsey County | | | | | | |
| T620005 | Arden Hills city | | | | | | 8012 |
| T620010 | Blaine city | | | | | | 0 |
| T620015 | Falcon Heights city | | | | | | 5291 |
| T620020 | Gem Lake city | | | | | | 394 |
| T620025 | Lauderdale city | | | | | | 1985 |
| T620030 | Little Canada city | | | | | | 7102 |
| T620035 | Maplewood city | | | | | | 26990 |
| T620040 | Mounds View city | | | | | | 12593 |
| T620045 | New Brighton city | | | | | | |
| P6200175 | New Brighton P 1 | | | | | | 3356 |
| P6200180 | New Brighton P 2 | | | | | | 3350 |
| P6200185 | New Brighton P 3 | | | | | | 4614 |
| P6200190 | New Brighton P 4 | | | | | | |
| B6230986 | CT | 411.04 | B | 326 | 0 | | 124 |
| B6230986 | CT | 411.04 | B | 326 | 0 | | 124 |
| B6230988 | CT | 411.04 | B | 341 | 0 | | 19 |
| B6230998 | CT | 411.05 | B | 3 | 0 | | 0 |
| B6230990 | CT | 411.05 | B | 110 | 0 | | 25 |
| B6230991 | CT | 411.05 | B | 114 | 0 | | 87 |
| B6230992 | CT | 411.05 | B | 115 | 0 | | 55 |
| B6230993 | CT | 411.05 | B | 116 | 0 | | 118 |
| B6230994 | CT | 411.05 | B | 119 | 0 | | 57 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | |
|---|---|---|---|---|---|---|
| B6230995 | CT | 411.05 | B | 120 | 0 | 202 |
| B6230996 | CT | 411.05 | B | 121 | 0 | 42 |
| B6230997 | CT | 411.05 | B | 122 | 0 | 234 |
| B6230999 | CT | 411.05 | B | 123 | 0 | 295 |
| B6231000 | CT | 411.05 | B | 124 | 0 | 38 |
| B6231001 | CT | 411.05 | B | 125 | 0 | 54 |
| B6231012 | CT | 411.05 | B | 148 | 0 | 56 |
| B6231076 | CT | 411.06 | B | 1 | 0 | 0 |
| B6231061 | CT | 411.06 | B | 2 | 0 | 0 |
| B6231080 | CT | 411.06 | B | 3 | 0 | 0 |
| B6231062 | CT | 411.06 | B | 104 | 0 | 39 |
| B6231063 | CT | 411.06 | B | 107 | 0 | 100 |
| B6231064 | CT | 411.06 | B | 108 | 0 | 92 |
| B6231077 | CT | 411.06 | B | 124 | 0 | 145 |
| B6231078 | CT | 411.06 | B | 125 | 0 | 2 |
| B6231079 | CT | 411.06 | B | 126 | 0 | 275 |
| B6231081 | CT | 411.06 | B | 127 | 0 | 221 |
| B6231082 | CT | 411.06 | B | 128 | 0 | 291 |
| B6231189 | CT | 411.00 | B | 316 | 0 | 80 |
| B6231190 | CT | 411.00 | B | 317 | 0 | 58 |
| B6231202 | CT | 411.00 | B | 319 | 0 | 558 |
| B6231191 | CT | 411.00 | B | 323 | 0 | 340 |
| B6231192 | CT | 411.00 | B | 324 | 0 | 278 |
| B6231193 | CT | 411.00 | B | 325 | 0 | 128 |
| | PRECINCT TOTAL | | | | | 4013 |
| P6200195 | New Brighton P 5 | | | | | 4101 |
| P6200200 | New Brighton P 6 | | | | | 3768 |
| | MCD TOTAL | | | | | 23202 |
| T620050 | North Oaks city | | | | | 2846 |
| T620055 | North St. Paul city | | | | | 11921 |
| T620060 | Roseville city | | | | | 35820 |
| T620065 | St. Anthony city | | | | | 2362 |
| T620070 | St. Paul city | | | | | 270230 |
| T620075 | Shoreview city | | | | | 17300 |
| T620080 | Spring Lake Park | | | | | 109 |
| T620085 | Vadnais Heights | | | | | 5111 |
| T620092 | White Bear township | | | | | 5921 |
| T620095 | White Bear Lake | | | | | 22528 |
| | COUNTY TOTAL | | | | | 459717 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 4 (Continued)**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| C082 | Washington County | | | | | | |
| T820070 | Hugo city | | | | | | |
| P8200130 | Hugo Prec | | | | | | |
| B8210212 | CT | 702.02 | B | 205 | 0 | | 144 |
| B8210223 | CT | 702.02 | B | 303 | 0 | | 22 |
| | PRECINCT TOTAL | | | | | | 166 |
| | MCD TOTAL | | | | | | 166 |
| | COUNTY TOTAL | | | | | | 166 |
| | DISTRICT TOTAL | | | | | | 509513 |
| | DEVIATION | | | | | | 17 |
| | PERCENT DEVIATION | | | | | | 0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 5**

| | | |
|---|---|---|
| C002 | Anoka County | |
| T020040 | Columbia Heights | 20029 |
| T020055 | Fridley city | 30228 |
| T020070 | Hilltop city | 817 |
| | COUNTY TOTAL | 51074 |
| C027 | Hennepin County | |
| T270010 | Brooklyn Center | 31230 |
| T270067 | Fort Snelling Cu | 223 |
| T270135 | Minneapolis city | 370951 |
| T270185 | Richfield city | 37851 |
| T270190 | Robbinsdale city | 37851 |
| P2701895 | Robinsdal P 1-2 | 1905 |
| P2701900 | Robinsdal P 2-1 | 2053 |
| P2701905 | Robinsdal P 2-2 | 1266 |
| P2701910 | Robinsdal P 3-1 | 1631 |
| P2701915 | Robinsdal P 3-2 | 2033 |
| P2701920 | Robinsdal P 4-1 | 1782 |
| P2701925 | Robinsdal P 4-2 | 1796 |
| | MDC TOTAL | 12466 |
| T270205 | St. Anthony city | 5619 |
| | COUNTY TOTAL | 458340 |
| C062 | Ramsey County | |
| T620045 | New Brighton city | |
| P6200190 | New Brighton P 4 | |
| B6230985 | CT 411.04 B 325 0 | 67 |
| | PRECINCT TOTAL | 67 |
| | MCD TOTAL | 67 |
| | COUNTY TOTAL | 67 |
| | DISTRICT TOTAL | 509481 |
| | DEVIATION | -15 |
| | PERCENT DEVIATION | -0.00 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 6**

| | | |
|---|---|---|
| C005 | Benton County | 25187 |
| C006 | Big Stone County | 7716 |
| C012 | Chippewa County | 14941 |
| C017 | Cottonwood County | 14854 |
| C032 | Jackson County | 13690 |
| C034 | Kandiyohi County | 36763 |
| C037 | Lac qui Parie County | 10592 |
| C041 | Lincoln County | 8207 |
| C042 | Lyon County | 25207 |
| C047 | Meeker County | |
| T470005 | Acton township | 475 |
| T470009 | Cedar Mills city | 73 |
| T470010 | Cedar Mills township | 569 |
| T470024 | Cosmos city | 571 |
| T470025 | Cosmos township | 274 |
| T470035 | Danielson township | 357 |
| T470039 | Darwin city | 282 |
| T470040 | Darwin township | 606 |
| T470049 | Dassel city | 1066 |
| T470050 | Dassel township | 967 |
| T470060 | Eden Valley city | 472 |
| T470065 | Ellsworth township | 632 |
| T470070 | Forest City township | 661 |
| T470075 | Forest Prairie township | 920 |
| T470080 | Greenleaf township | 664 |
| T470085 | Grove City city | 596 |
| T470090 | Harvey township | 431 |
| T470094 | Kingston city | 141 |
| T470095 | Kingston township | 971 |
| T470100 | Litchfield city | 5904 |
| T470105 | Litchfield township | 817 |
| T470110 | Manannah township | 628 |
| T470115 | Swede Grove township | 409 |
| T470120 | Union Grove township | 616 |
| T470125 | Watkins city | 757 |
| | COUNTY TOTAL | 19859 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 6 (Continued)**

| | | |
|---|---|---|
| C048 | Mille Lacs County | |
| T480005 | Bock city | 105 |
| T480010 | Bogus Brook township | 860 |
| T480015 | Borgholm township | 1042 |
| T480025 | Dailey township | 213 |
| T480035 | Foreston city | 283 |
| T480040 | Greenbush township | 1086 |
| T480045 | Hayland township | 354 |
| T480069 | Milaca city | 2104 |
| T480070 | Milaca township | 1001 |
| T480080 | Milo township | 957 |
| T480085 | Mudgett township | 100 |
| T480100 | Page township | 456 |
| T480105 | Pease city | 174 |
| T480109 | Princeton city | 3144 |
| T480110 | Princeton township | 1625 |
| | COUNTY TOTAL | 13504 |
| C051 | Murray County | 11507 |
| C053 | Nobles County | 21840 |
| C059 | Pipestone County | 11690 |
| C064 | Redwood | 19341 |
| C065 | Renville County | 20401 |
| C067 | Rock County | 10703 |
| C071 | Sherburne County | 29908 |
| C073 | Stearns County | 108161 |
| C075 | Stevens County | |
| 1750095 | Stevens township | 147 |
| | COUNTY TOTAL | 147 |
| C076 | Swift County | 12920 |
| C086 | Wright County | 58681 |
| C087 | Yellow Medicine County | 13653 |
| | DISTRICT TOTAL | 509472 |
| | DEVIATION | –24 |
| | PERCENT DEVIATION | –0.00 |

## COURT REDISTRICTING 4-81-CIVIL 152
## CONGRESSIONAL DISTRICT 7

| | | |
|---|---|---|
| C001 | Aitkin County | |
| T010004 | Aitkin city | 1770 |
| T010005 | Aitkin township | 917 |
| T010037 | Davidson Unorg. | 62 |
| T010040 | Farm Island township | 613 |
| T010045 | Fleming township | 289 |
| T010050 | Glen township | 343 |
| T010060 | Hazelton township | 467 |
| T010065 | Hill City city | 533 |
| T010070 | Hill Lake township | 429 |
| T010075 | Idun township | 202 |
| T010080 | Jevne township | 261 |
| T010082 | Jewett (unorg.) | 22 |
| T010085 | Kimberly township | 220 |
| T010090 | Lakeside township | 320 |
| T010095 | Lee township | 60 |
| T010100 | Libby township | 64 |
| T010105 | Logan township | 246 |
| T010125 | Macville township | 242 |
| T010130 | Malmo township | 218 |
| T010135 | Morrison township | 210 |
| T010140 | Nordland township | 642 |
| T010143 | Northwest Aitkin | 335 |
| T010145 | Palisade city | 155 |
| T010150 | Pliny township | 124 |
| T010165 | Seavey township | 70 |
| T010180 | Spencer township | 458 |
| T010195 | Verdon township | 54 |
| T010205 | Waukenabo township | 272 |
| T010210 | Wealthwood township | 196 |
| T010215 | White Pine township | 49 |
| T010225 | Workman township | 152 |
| | COUNTY TOTAL | 9995 |
| C003 | Becker County | 29336 |
| C004 | Beltrami County | 30982 |
| C011 | Cass County | 21050 |
| C014 | Clay County | 49327 |
| C015 | Clearwater County | 8761 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 7 (Continued)**

| | | |
|---|---|---|
| C018 | Crow Wing County | 41722 |
| C021 | Douglas County | 27839 |
| C026 | Grant County | 7171 |
| C029 | Hubbard County | 14098 |
| C033 | Kanabec County | |
| T330040 | Hay Brook township | 206 |
| T330045 | Hillman township | 311 |
| | COUNTY TOTAL | 517 |
| C035 | Kittson County | 6672 |
| C039 | Lake of the Woods County | 3764 |
| C044 | Mahnomen County | 5535 |
| C045 | Marshall County | 13027 |
| C048 | Mille Lacs County | |
| T480020 | Bradbury township | 157 |
| T480030 | East Side township | 621 |
| T480048 | Isle city | 573 |
| T480050 | Isle Harbor township | 445 |
| T480060 | Kathio township | 901 |
| T480065 | Lewis township | 60 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 8**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| B0200283 | | CT | 502.09 | B | 407 | 0 | 0 |
| B0200279 | | CT | 502.09 | B | 408 | 0 | 79 |
| B0200280 | | CT | 502.09 | B | 409 | 0 | 12 |
| B0200282 | | CT | 502.09 | B | 410 | 0 | 10 |
| B0200281 | | CT | 502.09 | B | 411 | 0 | 9 |
| B0200274 | | CT | 502.09 | B | 412 | 0 | 516 |
| B0200277 | | CT | 502.09 | B | 413 | 0 | 35 |
| B0200273 | | CT | 502.09 | B | 414 | 0 | 53 |
| B0200276 | | CT | 502.09 | B | 415 | 0 | 62 |
| B0200275 | | CT | 502.09 | B | 416 | 0 | 48 |
| B0200278 | | CT | 502.09 | B | 417 | 0 | 17 |
| B0200252 | | CT | 502.09 | B | 419 | 0 | 32 |
| | | PRECINCT TOTAL | | | | | 3558 |
| | | MCD TOTAL | | | | | 7531 |
| T020085 | Linwood township | | | | | | 2849 |
| T020090 | Oak Grove township | | | | | | 3926 |
| T020095 | Ramsey city | | | | | | 10093 |
| T020106 | St. Francis city | | | | | | 1184 |
| | COUNTY TOTAL | | | | | | 95294 |
| C009 | Carlton County | | | | | | 29936 |
| C013 | Chisago County | | | | | | 25717 |
| C016 | Cook County | | | | | | 4092 |
| C030 | Isanti County | | | | | | 23600 |
| C033 | Kanabec County | | | | | | |
| T330005 | Ann Lake township | | | | | | 226 |
| T330010 | Arthur township | | | | | | 1435 |
| T330015 | Brunswick township | | | | | | 978 |
| T330020 | Comfort township | | | | | | 756 |
| T330025 | Ford township | | | | | | 137 |
| T330030 | Grass Lake township | | | | | | 944 |
| T330035 | Grasston city | | | | | | 123 |
| T330050 | Kanabec township | | | | | | 656 |
| T330055 | Knife Lake township | | | | | | 727 |
| T330060 | Kroschel township | | | | | | 216 |
| T330065 | Mora city | | | | | | 2890 |
| T330070 | Ogilvie city | | | | | | 423 |
| T330075 | Peace township | | | | | | 485 |

**COURT REDISTRICTING 4-81-CIVIL 152**
**CONGRESSIONAL DISTRICT 8 (Continued)**

| | | |
|---|---|---|
| T330080 | Pomroy township | 342 |
| T330085 | Quamba city | 122 |
| T330090 | South Fork township | 568 |
| T330095 | Whited township | 616 |
| | COUNTY TOTAL | 11644 |
| C036 | Koochiching County | 17571 |
| C038 | Lake County | 13043 |
| C058 | Pine County | 19871 |
| C069 | St. Louis County | 222229 |
| | DISTRICT TOTAL | 509475 |
| | DEVIATION | -21 |
| | PERCENT DEVIATION | -0.00 |

## COURT REDISTRICTING 4-81-CIVIL 152
## REPORT SUMMARY

**CONGRESSIONAL DISTRICT PLAN** **NUMBER OF DISTRICTS — 8**

| DISTRICT NAME | TOTAL POPULATION | DEVIATION | PERCENT DEVIATION |
|---|---|---|---|
| 1 | 509519 | 23 | 0.00 |
| 2 | 509506 | 10 | 0.00 |
| 3 | 509497 | 1 | 0.00 |
| 4 | 509513 | 17 | 0.00 |
| 5 | 509481 | -15 | -0.00 |
| 6 | 509472 | -24 | -0.00 |
| 7 | 509507 | 11 | 0.00 |
| 8 | 509475 | -21 | -0.00 |
| STATE TOTAL | 4075970 | | |

MEAN DEVIATION IS 15

MEAN PERCENT DEVIATION IS 0.00

**UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**
**FOURTH DIVISION**

---

**4-81 Civ. 414**

---

SHARON LACOMB, JAMES A. WOOLLEY, and PHILLIP R. KRASS, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,

*Plaintiffs,*

v.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISHCHUK, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

*Defendants,*

MARTIN JOHNSON, WILLIAM SAVAGE, and PATRICIA WIRTANEN,

*Intervenors.*

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**ORDER**

WHEREAS, by Order dated September 14, 1981, the present apportionment of Congressional Districts in Minnesota has been declared unconstitutional; and

WHEREAS, the parties have submitted suggested criteria to be employed in the formulation of a constitutional plan of congressional apportionment; and

WHEREAS, the parties have commented on the suggested criteria;

NOW, THEREFORE, on the Basis of all of the files, records and proceedings and the arguments of counsel,

IT IS ORDERED That plans for apportioning the Minnesota Congressional Districts shall be consistent with the following criteria:

1. There shall be eight (8) districts. The population of the districts shall be as nearly equal as possible. The maximum permissible deviation from population equality will be plus or minus one-quarter of one percent (.25%), or 1,274 people.

2. The districts shall be single member, compact and contiguous.

3. The integrity of existing boundaries of political subdivisions of the State will be respected to the extent practicable to minimize division in the formation of a district.

4. Districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of minority representation from areas of sizable concentrations of minority population.

IT IS FURTHER ORDERED That apportionment plans may recognize the preservation of communities of interest in the formation of districts. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.

IT IS FURTHER ORDERED That any plan of apportionment submitted to the Court comply with the following format.

The following will be submitted with any proposed apportionment plan in triplicate:

1. The following maps on which proposed district lines shall be drawn and district numbers entered.

a. A map of the state, showing minor civil division boundaries in counties that are split between districts.

b. A map of the outer metropolitan area showing minor civil division boundaries and census tract boundaries.

c. A map of each municipality not wholly within one district or which contains more than one whole district, showing census tract or enumeration district, block groups or block boundaries, as available.

d. A map of the inner metropolitan area, showing census tract boundaries.

e. Where census tracts are split, sections of city maps showing block boundaries.

f. With respect to each category in this paragraph (1), the parties shall agree by stipulation on the base maps to be used.

2. A table showing the name or number designation and populations of all component units and subunits, where units are subdivided between districts, of proposed districts, listed vertically. For example, whole counties, where not split, shall be listed. Where a county is split, the county name shall be listed, followed by the names and populations of the minor civil divisions of that country within the proposed district. Where a minor civil division is split, its name shall be listed followed by the census tract numbers or the enumeration district identifications and populations within the proposed district. Where a census tract is split, the census tract name shall be shown, followed by the block group number and population. Where a block group is split, block numbers and population shall be listed.

For each split unit or subunit within a district, a subtotal shall be shown.

For each district, the total population shall be shown. Adding machine tapes or other evidence of the addition shall be attached. The numerical deviation from the average (ideal) district size, and the percentage deviation carried out to two decimal places be calculated.

As an annex to this table, another table shall be prepared showing how the parts of any split unit or subunit described above assigned to each district add up to equal the population of the next higher unit, including a final addition of districts to a state total, with an explanation of discrepancy or failure to close, if any.

3. A summary of all district totals ranked by percentage deviation, showing the district number, the population, the population deviation and the percentage deviation.

4. Newest population districts.

5. A calculation of the mean deviation of all districts.

The court is proceeding pursuant to its order of October 8, 1981 to prepare itself to reapportion the State under the announced schedule should that become necessary. For that purpose, Special Masters have been appointed, computer equipment like that used by the State has been ordered, and clerical personnel have been employed.

The court, however, again emphasizes that the responsibility for reapportionment lies within the legislative and executive branches of the State. Only if they fail to meet their responsibility within the existing time schedule will this court undertake the task.

GERALD W. HEANEY
Gerald W. Heaney
United States Circuit Judge

/s/ DONALD D. ALSOP
Donald D. Alsop
United States District Judge

/s/ HARRY H. MACLAUGHLIN
Harry H. MacLaughlin
United States District Judge

DATED: December 29, 1981.

**CONCURRING**

The court's order sets forth and adopts basic reapportionment criteria about which there exists no genuine controversy. It provides that all districts be single member, be compact, be contiguous, preserve the voting strength of minority populations, respect boundaries of political subdivisions, and contain a degree of population equality. The order further provides that plans may recognize the preservation of "communities of interest."

In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be

reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court.

DATED: December 29, 1981.

/s/ DONALD D. ALSOP
Donald D. Alsop
United States District Judge

**UNITED STATES DISTRICT COURT**
**DISTRICT OF MINNESOTA**
**FOURTH DIVISION**

---

**4-81 Civ. 414**

---

SHARON LACOMB, JAMES A. WOOLLEY, and PHILLIP R. KRASS, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,

*Plaintiffs,*

v.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISHCHUK, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

*Defendants,*

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Intervenors,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

**NOTICE OF APPEAL**
**TO THE SUPREME COURT OF**
**THE UNITED STATES**

Notice is hereby given that Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnobrich, Henry Berghuis and Dorothy Nelson, the defendants in intervention

above named, hereby appeal to the Supreme Court of the United States from the order entered in this action on March 11, 1982.

This appeal is taken pursuant to 28 U.S.C. § 1253.

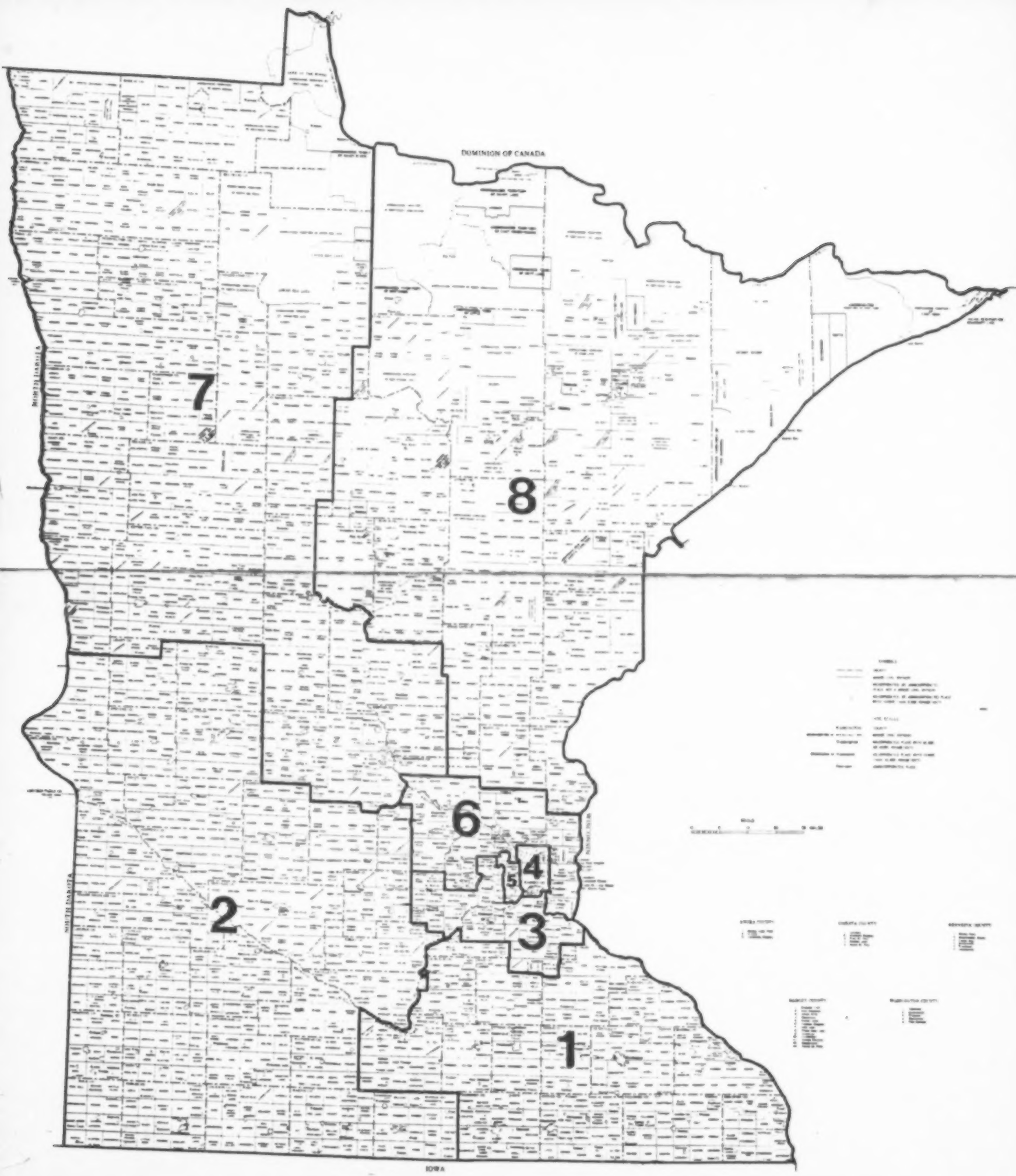
Respectfully submitted,

/s/ KATHLEEN HEENAN
Kathleen Heenan, One of the
Attorneys for the Intervenors

RICHARD H. KYLE
BRIGGS & MORGAN
First National Bank Building
St. Paul, Minnesota 55101

JERRIS LEONARD
KATHLEEN HEENAN
Counsel for Intervenors
Jerris Leonard & Associates, P.C.
900 17th Street, N.W., Suite 1020
Washington, D.C. 20006
202-872-1095

Dated: March 18, 1982


DOMINION OF CANADA
7
8
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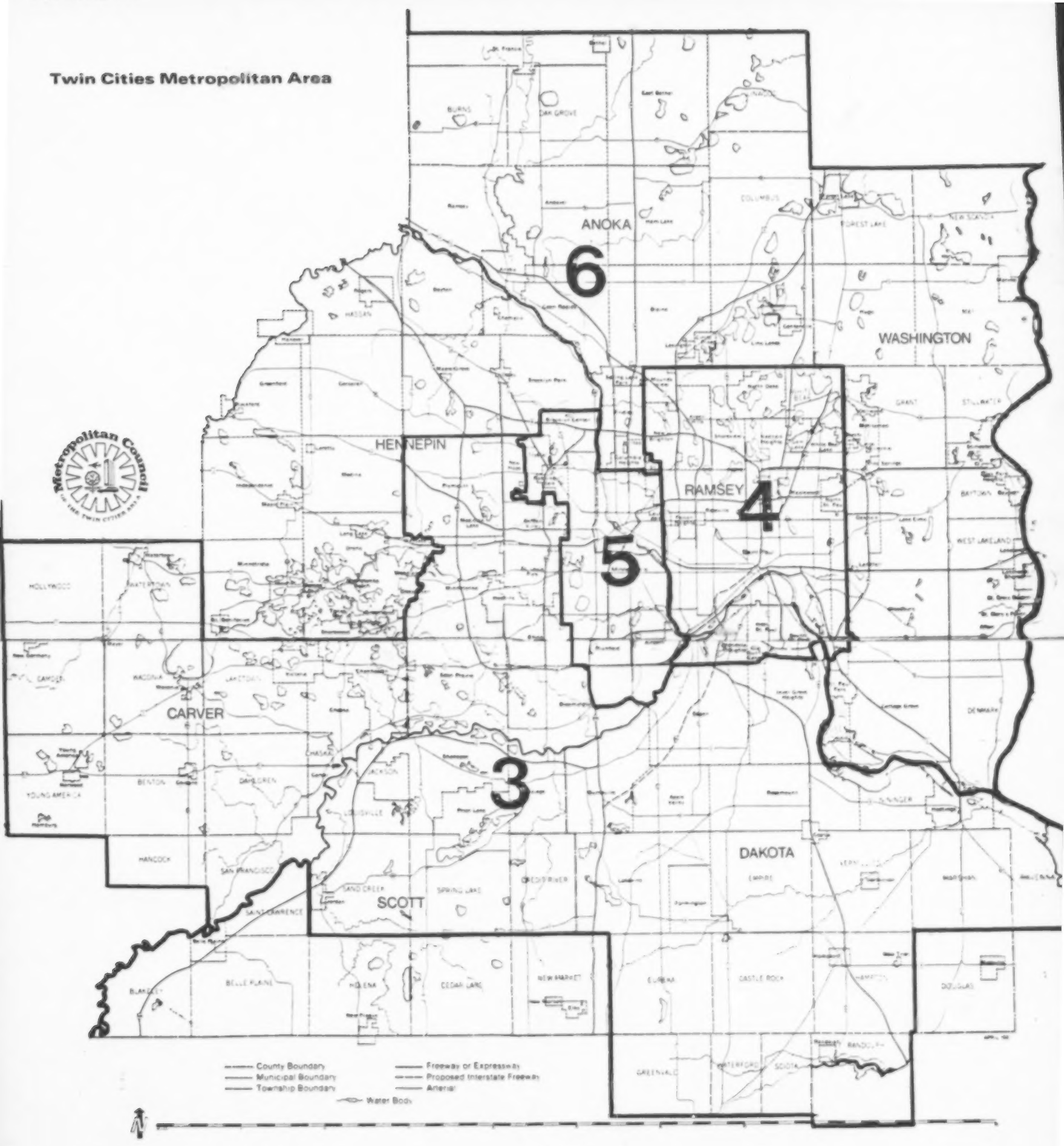
1
IOWA

**Twin Cities Metropolitan Area**



DOMINION OF CANADA
NORTH DAKOTA
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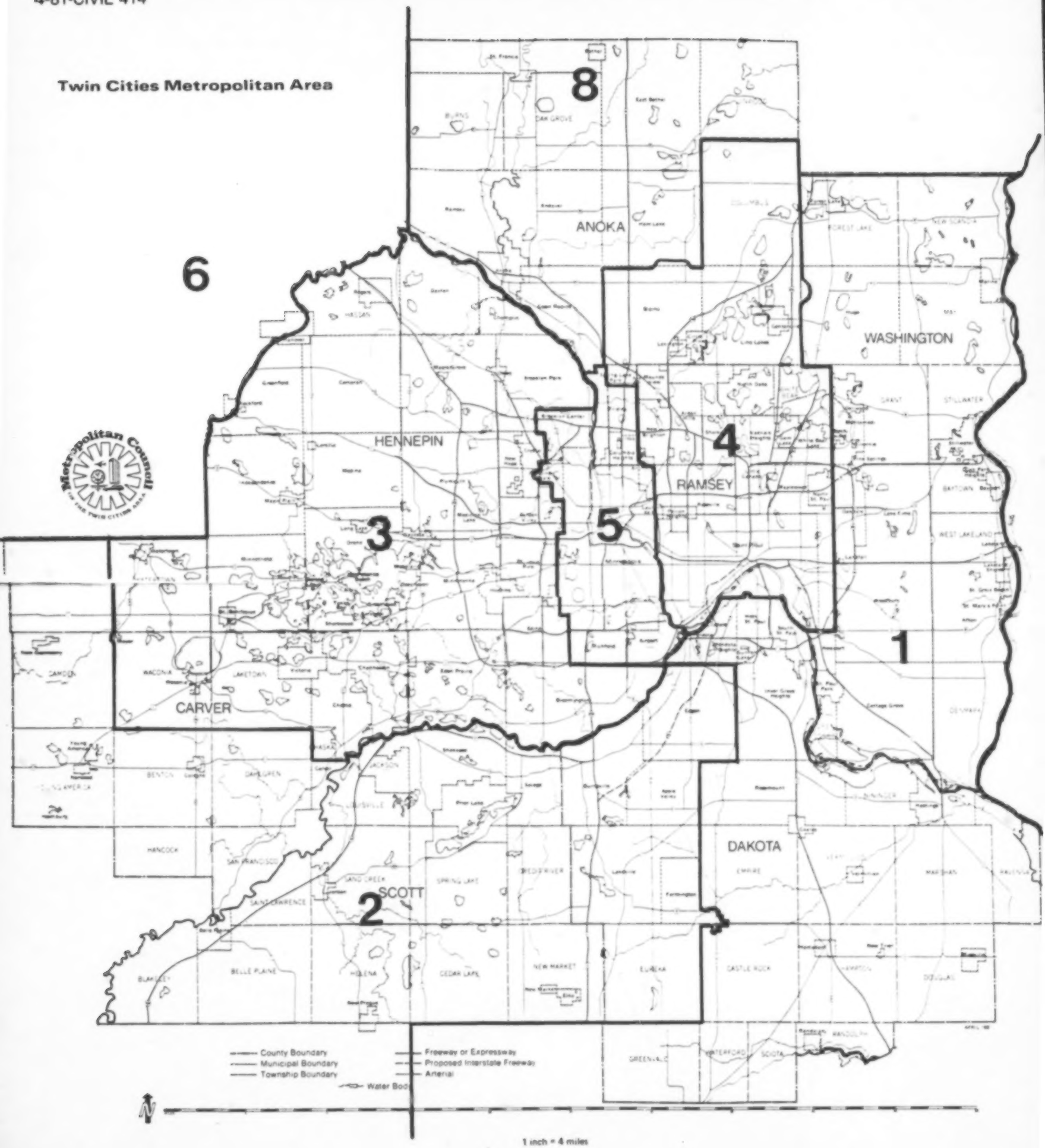
Twin Cities Metropolitan Area
8
ANOKA
6
WASHINGTON
HENNEPIN
4
RAMSEY
3
5
1
CARVER
DAKOTA
SCOTT
2
County Boundary
Municipal Boundary
Township Boundary
Freeway or Expressway
Proposed Interstate Freeway
Arterial
Water Bod
1 inch = 4 miles

# Supplemental Brief

IN THE
SUPREME COURT OF THE UNITED STATES
February Term, 1982

| | | |
|---|---|---|
| Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schrobrick, Henry Berghuis, Dorothy Nelson, | ) | |
| Appellants, | ) | No. 81-1770 |
| v. | ) | |
| Sharon LaComb, James A. Wooley, Philip R. Krass, | ) | |
| Appellees, | ) | |
| Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor; Charles R. Lefebrue, Anoka County Auditor; Carl D. Onishchuk, Dakota County Auditor, | ) | |
| Appellees. | ) | |

On Appeal from the United States District Court
for the District of Minnesota, Fourth Division

SUPPLEMENT TO JURISDICTIONAL STATEMENT
AND MOTION TO EXPEDITE

On March 8, 1982, a three-judge court in the United States District Court for the District of South Carolina, consisting of Haynsworth, Senior Circuit Judge, Russell, Circuit Judge, and Simons, Chief Judge for the District of South Carolina, filed a per curiam opinion, redistricting South Carolina in conformance with the "one-man - one-vote" constitutional standard. We bring this case to the Court's

attention because the facts in South Carolina State Conference of Branches of the NAACP v. Riley, Memorandum Opinion at 3, CIV.A. No. 81-2287-6 (D.S.C. 1982) ("South Carolina") are nearly identical to the facts in the instant Minnesota case, Orwoll v. Lacomb, No. 81-1770 (1982) ("Minnesota"). Moreover, the least-changes approach advocated by the Appellants but rejected by the federal court in Minnesota below, controlled the decision of the panel in South Carolina.

In South Carolina, the South Carolina legislature was "hopelessly deadlocked" in their attempt at adopting a congressional redistricting plan. As a result, all parties agreed that the district court must adopt a new congressional redistricting plan. The court accepted this task noting, however, that the full legislature could enact their own plan should they reach agreement.

The district court held that the choice of a redistricting plan must be the result of certain considerations, including least alterations to the old plan, preservation of county lines, low population variances, degree of political support, compactness and others. Because of its pertinence, the Court's consideration "C" is quoted in its entirety.

> C. Any new plan should alter the old only insofar as necessary to obtain an acceptable result. Incumbents know their constituents in the old districts, and many of those constituents will know their congressman as "my congressman." Many of the constituents would have been served by the congressman in ways calculated to

> obtain and enhance loyal support. Such voters ought not to be deprived of the opportunity to vote for a candidate that has served them well in the past and to enjoy his continued representation of them. Supporters and opponents, alike, have a basis for judging him. This consideration, of course, must give way to the requirements of Wesberry v. Sanders, but great alterations of the old districts should not be undertaken if lesser change will achieve the desired result. See White v. Weiser, supra, at 797.

We suggest that the principle "great alterations of the old districts should not be undertaken if lesser change will achieve desired result" governs the instant Minnesota case.

Respectfully submitted,

Jerris Leonard

Jerris Leonard, Counsel of
Record for the Appellants

Of Counsel:

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202-872-1095

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St. Paul, Minnesota 55101
612-291-1215

# Appendix

# Appendix

MAR 31 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

81-1770

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

RECEIVED
MAR 31 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Civil Action No. 81-2287-6

South Carolina State Conference of Branches of the National Association for the Advancement of Colored People, Inc., and William F. Gibson, its President, Adele Thompson Adams, Carol Camellia Singletary, Rev. George R. Couser, Robert S. Logan, Madie Robinson, Frank B. Washington, David I. Lucas, and S. T. Peden,

LODGING

Plaintiffs,

versus

Honorable Richard D. Riley, Governor of the State of South Carolina, Nancy Stevenson, Lieutenant Governor of the State of South Carolina, Presiding Officer and President of the Senate, L. Marion Gressette, President Pro-Tempore of the Senate and Chairman of the Senate Judiciary Committee, Raymond Schwartz, Jr., Speaker of the House, Robert J. Sheheen, Chairman of the House Judiciary Committee of the State of South Carolina, and James Ellisor, Elections Commissioner for the State of South Carolina,

Defendants.

---

Civil Action No. 81-2493-0

Richard Patrick Owens, a resident of the County of Hampton, and Henry D. Prickett, a resident of the County of Greenville,

Plaintiffs,

versus

Richard W. Riley, Governor of the State of South Carolina, Nancy Stevenson, Lieutenant Governor of the State of South Carolina and Presiding Officer of the Senate, Ramon Schwartz, Jr., Speaker of the South Carolina House of Representatives, and James B. Ellisor, Executive Director of the Elections Commission for the State of South Carolina,

Defendants.

---

Argued February 11, 1982 Decided

---

Before HAYNSWORTH, Senior Circuit Judge, RUSSELL, Circuit Judge, and SIMONS, Chief Judge for the District of South Carolina

PER CURIAM:

For many months the two houses of the South Carolina legislature wrestled with the problem of congressional redistricting on the basis of the 1980 census data. Plans acceptable to one of the houses, however, were not acceptable to the other. Conceiving themselves to be hopelessly deadlocked, they abandoned the attempt to reach agreement with the expectation that this court would adopt a redistricting plan for the State.

I.

No one contends the 1970 congressional districting plan may be continued. Between the 1970 and 1980 censuses, there were population shifts and disparate growth rates so that the 1970 plan would have impermissibly high variances on the basis of the 1980 census data. All parties before the court are thus agreed that this court must adopt a new congressional redistricting plan for South Carolina. That we will do, but with the distinct qualification that, if a different congressional districting plan is lawfully enacted, it may be placed in effect in lieu of the court's plan, provided it meets federal constitutional requirements and is in place in time to permit orderly functioning of the electoral process in the first election to which it is to be applied.

II.

Two separate cases have been consolidated for hearing and disposition. One of them was brought by the South Carolina State Conference of Branches of the National Association for the Advancement of Colored People and some of its officials. It was brought against the Governor, the Lieutenant Governor, the chairman of the Senate Judiciary Committee and the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Judiciary Committee of the House, and the Executive Director of the Elections Commission of the State of South Carolina. The other was brought by Richard Patrick Owens and Henry D. Prickett, in their capacities as individual voters, against some of the same defendants.[1]

The parties have presented a number of plans for consideration by the court. The NAACP plaintiffs have submitted three plans, though they principally urge adoption of one of two plans which would create a Sixth District with a majority of black residents. The Owens plaintiffs have submitted the "Eagle Plan," so called because its Second District resembles an eagle with wings widespread and its tail, neck and head outstretched. They also have submitted

---

1. A number of defendants have filed motions to dismiss. We do not consider those motions of the legislative defendants, for no relief will be granted as to them. The motion of the Executive Director of the Elections Commission is denied, for it is he who will have primary responsibility for the implementation and execution of our order. Our order will also run against the Governor and Lieutenant Governor insofar as they may be involved in the execution of the election laws, including compliance with our direction.

a modified Eagle Plan, with a very low variance achieved by crossing county lines to pick up or drop pockets of people. The defendants from the House of Representatives have submitted a plan enacted by the House, and they urge its adoption by the court. The Senate defendants have laid upon the table a number of plans, only one of which, the 3.44% plan which is discussed later, was ever enacted by either house. They do not urge us to adopt any one of them, but invite our attention to them solely for the purpose of showing that district boundaries may be drawn to produce tolerable variances without violating county lines.

III.

We take our direction from a set of principles which should guide us.

A. First, and most important, is the requirement of Wesberry v. Sanders, 376 U.S. 1 (1964), that "as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's." Id. at 7-8. We will thus confine our consideration to plans with low population variances. There are several plans before us with maximum variances of less than 1%, still more with maximum variances of less than 2%. The higher the variance, of course, the stronger must be the reasons for departure from near perfect equality.

B. The State has a substantial interest in the preservation of county lines in the congressional redistricting process, as long as that can be done without violation of the principle of Wesberry v. Sanders and consistently with other State interests. See White v. Weiser, 412 U.S. 783, 795 (1973). Indeed, the Senate defendants insist that the South Carolina Constitution requires of the legislature strict adherence to county lines in drawing congressional districts.

Article VII, § 13 of the South Carolina Constitution of 1895 provides:

> The General Assembly may at any time arrange the various Counties into Judicial Circuits, and into Congressional Districts . . . as it may deem wise and proper . . . .

The provision is permissive, not mandatory, though the Senate defendants would find in it an implicit prohibition against subdivision of any county. With respect to that, one may say that there should be little doubt that the members of the constitutional convention of 1895 did not foresee the Supreme Court's holding in Wesberry v. Sanders and the problems that would be engendered by required decennial redistricting. Probably no one thought of the possibility of a division of a county between two congressional districts, and, if one had thought of it, the answer probably would have been that it should not be done unless there was good reason for it.

This is a question, however, which we may not address authoritatively. Only the Supreme Court of South Carolina may do that. Clearly, however, South Carolina's constitutional provision addresses the powers of the legislature. It has nothing to do with the power of this court, and it is relevant to our decision only insofar as it may be read as an expression of a general state policy against dividing counties in the course of congressional redistricting.

We recognize, however, that there is a substantial state policy favoring drawing congressional districts along county boundaries. This is so because the residents of a county have a community of interest. They are accustomed to voting together for county officials. There is much administrative convenience in drawing district lines along county lines, and it facilitates the process of organizing constituencies and campaigning for the support of constituents.

C. **Any new plan should alter the old only insofar as necessary to obtain an acceptable result.** Incumbents know their constituents in the old districts, and many of those constituents will know their congressman as "my congressman." Many of the constituents would have been served by the congressman in ways calculated to obtain and enhance loyal support. Such voters ought not to be deprived of the opportunity to vote for a candidate that has served them well in the past and to enjoy his continued representation of them. Supporters and opponents, alike, have a basis

for judging him. This consideration, of course, must give way to the requirement of Wesberry v. Sanders, but great alterations of the old districts should not be undertaken if lesser change will achieve the desired result. See White v. Weiser, supra, at 797.

D. Certain adjoining counties have a special community of interest, for metropolitan areas overflow county boundaries. This is true of Greenville and Spartanburg and of Richland and Lexington, for metropolitan Columbia's growth in Lexington County has been large and vigorous. It is also true of Charleston, Berkeley and Dorchester. Metropolitan Charleston's area includes portions of both Berkeley and Dorchester, and the three counties together support and run a joint Chamber of Commerce. See David v. Cahill, 342 F. Supp. 463, 469 (D.N.J. 1972).

E. The districts should be as compact as reasonably possible. See Dunnell v. Austin, 344 F. Supp. 210, 215 (E.D. Mich. 1972).

F. We must be careful that district boundaries are not gerrymandered to dilute the voting strength of minorities. See Gomillion v. Lightfoot, 364 U.S. 339 (1960). A court should approach the problem with racial neutrality but with care to be assured that no unfairness to any race is inadvertently perpetrated.

G. Finally, we must give some weight to the fact that the plan adopted by the House has substantial political support. No other plan with an acceptable variance has been

adopted by either house or enjoys any ascertainable degree of political acceptance.

Perhaps no plan may fully serve all of these purposes, but each should be judged with these considerations in mind.

IV.

The House plan achieves a thoroughly acceptable maximum variance of 0.28%.

The changes to achieve that result involve only six of the forty-six counties. Barnwell and Allendale are moved from the Second District to the Third. Newberry County is moved from the Third District to the Fifth, while Union County is moved from the Fifth to the Fourth, and Lee County is moved from the Sixth to the Fifth.

Berkeley County is divided. Most of the populous Goose Creek-Hanahan Division of Berkeley County, a part of metropolitan Charleston in which approximately 54,000 people reside, is placed with Charleston in the First District, while the much larger, though more rural area of the county, containing about 40,000 people, is placed in the Sixth District.

The House plan substantially preserves intact the metropolitan centers which are thought to be best left together. Greenville and Spartanburg remain in the Fourth, Richland and Lexington remain in the Second, while Charleston

and Dorchester, and most of that portion of Berkeley County which may be regarded as part of the Charleston metropolitan area, remain in the First.

The House plan does not reduce the black population of any district by as much as 1%. That population is reduced by .9% in the First District, by .8% in the Second, and by .4% in the Sixth, but there are reciprocal increases of 1% in the Third District, of .7% in the Fourth, and of .2% in the Fifth.

The only discernible objection to the House plan is the division of Berkeley County.

One of the plans submitted on behalf of the Senate defendants, though its adoption is not urged, has a maximum variance of .73%, substantially higher than the .28% of the House plan. The districts are organized entirely along county lines, but to achieve that result eighteen counties are moved from one district to another. Greenville and Spartanburg are divided, and Berkeley County is entirely separated from Charleston and placed in the Sixth District, although it is substantially surrounded by a revised First District.

Another plan submitted by counsel for the Senate defendants would achieve a maximum variance of .98%. The division is entirely along county lines, but Richland and Lexington are separated, as are Charleston and Dorchester.

The Second District, into which the Fifth deeply penetrates, could hardly be called compact. Thirteen counties would be transferred out of their present districts.

Counsel for the Senate defendants have submitted other plans with maximum variances ranging from 1.48% to 2.37%. The boundaries are entirely along county lines, but they achieve their results by radical rearrangement of the counties. In the 1.48% plan, for instance, the First District gives up Hampton, Jasper, Beaufort, Colleton and Dorchester but picks up Georgetown and Horry Counties. The Second District would lose Barnwell, Allendale, Bamberg, Orangeburg, Richland and Calhoun Counties, but would acquire Saluda, Newberry, Laurens, Abbeville, Anderson, Oconee and Pickens Counties. The Third District would lose Oconee, Pickens, Anderson, Abbeville, Saluda and Newberry Counties, but would pick up Barnwell, Allendale, Bamberg, Orangeburg, Calhoun, Hampton, Colleton, Jasper, Dorchester and Beaufort Counties. The Fifth District would lose Union County to the Fourth, and Chesterfield, Kershaw and Sumter to the Sixth, while picking up Richland County. The Sixth District would lose Horry and Georgetown to the First, while picking up Sumter, Kershaw and Chesterfield.

As we have indicated, neither the Senate itself nor either of the Senate defendants has endorsed any of the plans submitted to us by their lawyers. They are simply

illustrations of the fact that the district lines can be drawn with strict adherence to county lines, but they are also demonstrations of the fact that the cost is very large, since they bear little resemblance to the present districts. In addition, the population variances in all of the plans exceed the population variance in the House plan.

The last plan actually considered favorably by the Senate has a maximum variance of 3.44%, and it has a Third District extending from the mountain ridges, along which the border with North Carolina runs, to the Atlantic Ocean.

The Eagle Plan has a maximum variance of 1.55%, and separates Richland and Lexington Counties and Charleston and Dorchester Counties. Moreover, it would transfer ten counties from one district to another. The residencies of two incumbents would be placed in the same district.

At oral argument, counsel for the Owens plaintiffs submitted a modified Eagle Plan. It is identical to the first except that in four instances it crosses county lines to pick up small groups of persons and move them from one district to another. By such moves it achieves a maximum variance of only 0.0656%, but the separation of Richland and Lexington Counties and Charleston and Dorchester Counties remain. Moreover, crossing county lines in four instances for the purpose of transferring relatively small groups of people from one district to another seems unacceptable.

The NAACP plaintiffs have tendered three plans with maximum variances of 0.66%, 1.50% and 2.61%. The rearrangement of the counties is radical, many counties are split, and the population variances are higher than the one in the House plan. In the 0.66% plan, Colleton, Dorchester, Berkeley, Williamsburg, Marion, Darlington, Richland, Anderson, Florence, Orangeburg and York are each divided between two districts. The 1.50% plan divides Anderson, York, Richland, Darlington, Florence, Berkeley, Dorchester and Colleton Counties.

V.

From these brief descriptions of suggested plans, it should be apparent that the most acceptable one is the House 0.28% plan. It more satisfactorily meets every consideration identified as relevant to our decision, except for the division of Berkeley County. A division of one county is not an inconsiderable objection, but it seems to us far less weighty than the extensive and radical rearrangement of the counties or the great increase in the maximum variances that strict adherence to the boundaries of all forty-six counties requires. Moreover, that division is not simply a move to pick up or exclude people, but is drawn roughly along the borders of metropolitan Charleston with which the people in the lower part of Berkeley County do have a community of interest.

We are not entirely satisfied, however, with the precise location of the line dividing Berkeley County. In part it runs through a Naval facility upon which people are housed, and the exact line through it is yet to be located upon the basis of a population count yet to be made. To the extent that it is feasible, the line there and elsewhere should run along precinct lines so that all of the residents of each precinct may use one ballot for congressional races. Counsel will be requested to make further inquiry as to that, and to report back to the Court.

We have considered all of the suggested plans. We have not attempted to develop one of our own. The likelihood that we could produce one better than the House 0.28% plan is so slight an attempt is unwarranted. The time for campaigning is almost at hand; an effort to develop a court alternative would take weeks if not months. As soon as possible candidates should know the boundaries of their districts, and the voters their choice of candidates.

VI.

An order will be entered requiring the House 0.28% plan to be placed in effect, subject to modification of the line dividing Berkeley County. That plan will remain in effect for all congressional elections through 1990, unless South Carolina enacts its own plan which will meet federal

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constitutional requirements. To that end, the South Carolina legislature is free to proceed at any time, and to place in effect a lawfully enacted plan, provided only that the plan is in place a sufficient time before the first election to which it is to be applied to permit the orderly functioning of the electoral process.

# Motion to Dismiss or Affirm

1

Office-Supreme Court, U.S.
FILED
APR 24 1982
ALEXANDER L. STEVAS,
CLERK

No. 81-1770

IN THE

# Supreme Court of the United States

October Term, 1981

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,
*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,
*Appellees,*

and

JOAN GROWE, SECRETARY OF STATE OF MINNESOTA,
*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,
*Amicus Curiae.*

## MOTION TO AFFIRM

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IN THE

# Supreme Court of the United States

October Term, 1981

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No. 81-1770

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LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Appellees,*

and

JOAN GROWE, SECRETARY OF STATE OF MINNESOTA,

*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

---

## MOTION TO AFFIRM

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## MOTION

Appellee Minnesota Secretary of State Joan Growe, pursuant to Rule 16 of the Rules of the Supreme Court of the United States, moves that the final judgment and order of the District Court of the District of Minnesota be affirmed on the ground that the question presented by the appellants is so unsubstantial as not to warrant further argument.

The motion submitted by the other appellees have fully set forth the questions presented and the facts of this case. The appellants' jurisdictional statement has fully set forth the statutory and constitutional provisions involved.

## STATEMENT OF APPELLEES INTEREST

Secretary of State Joan Growe is the chief election official in Minnesota. She is responsible for assuring that state elections are conducted in a timely and orderly fashion. By law she is required to instruct, coordinate, and at times, supervise the activities of local election officials.[1] This responsibility includes Congressional elections.[2] Presumably, it is because of this key role in the election process that the Secretary of State was named as the primary defendant when this action was originally filed.

The Secretary of State has been an active participant in this litigation. She, at least as much as the several Republican Congressmen who have apparently directed this appeal without being parties to it, possesses a clear and cognizable interest

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[1] *See, e.g.*, Minn. Stat., chs. 201, 203B, 204B, 204C, 204D, 206, 210A (1981 Supp.) and Minn. Const. art. VII, § 8. *See also* 1 MCAR 2.0101-.1101, 2.2101-.2115, 2.3101-.3907, 2.4101-.4205 and 2.5101-.5119, administrative regulations governing election matters.

[2] *See e.g.*, Minn. Stat. §§ 204D.036, subd. 4 and 204B.09, subd. 1.

in its outcome. She feels that the plan adopted by the Court is not only fair but represents the best combination of the competing considerations possible under the circumstances. It assures equality of representation and, if permitted to remain in effect, will help assure a timely, orderly election process.

## ARGUMENT

### THE QUESTIONS PRESENTED ARE NOT SUBSTANTIAL.

#### A. Introduction: Applicable criteria.

Decisions of this Court have clearly articulated the constitutional and equitable duties of the district courts in congressional redistricting cases. Since this Court's decision in *Wesberry v. Sanders*, 376 U.S. 1 (1964), it has been clear that the United States Constitution demands congressional districts be drawn, as nearly as practicable, to achieve absolute population equality. Since *Kirkpatrick v. Preisler*, 394 U.S. 526 (1969), it has been equally clear that even minor deviations from equality, if at all possible, must be avoided. This Court has also decreed that district lines may not be drawn to minimize the voting strength of racial or political minorities. *Fortson v. Dorsey*, 379 U.S. 433 (1965).

While population equality has remained "the preeminent, if not the sole, criterion on which to adjudge constitutionality," *Chapman v. Meier*, 410 U.S. 1, 23 (1975), the district courts have been required to do more than pursue mathematical equality. This Court's decision in *White v. Weiser*, 412 U.S. 783 (1973), has required the district courts to respect state policies as revealed "in statutory or constitutional pro-

visions or in reapportionment plans proposed by the state legislature . . . ." 412 U.S. at 797.

From this Court's decisions emerges a command to the district courts to exercise their equitable powers to reconcile the often-competing requirements of the Constitution and state policies. In this case, the district court has fulfilled that command.

On December 29, 1981, a unanimous panel adopted criteria to be used by the court in evaluating redistricting plans. Those criteria emphasized population equality and preservation of minority voting strength. In addition, those criteria reflected state policy by requiring that new districts be compact and contiguous and respect, as far as practical, the boundaries of existing political subdivisions. Just as importantly, the court provided that identifiable communities of interest could be recognized in district plans. Order dated December 29, 1981, App. at A-3.

The plan which was ultimately adopted by the court best met the stated criteria. The appellants' contentions to the contrary are so patently unsubstantial as to warrant no further argument.

### B. The District Court's Decision Fulfills All Constitutional Requirements.

#### 1. Population Equality.

The redistricting plan adopted by the district court more nearly achieves precise population equality among the congressional districts than any other plan submitted by the parties

or suggested by the dissenting member of the district court.[3] The appellants, however, ask this Court to invalidate that plan. They contend that the court should have adopted a different plan incorporating unnecessary population inequalities because it is aesthetically most similar to one adopted in the past. Essentially what they want is to prolong the incumbency of certain congressmen.

This Court has previously rejected more substantial arguments offered as justification for deviations from equality. Considerations of such things as district compactness, history, and practical politics, while never sufficient to invalidate an otherwise constitutional plan, have never been deemed sufficient to justify avoidable population inequalities. *Compare Kirkpatrick v. Preisler*, 394 U.S. at 532-36 (political considerations will not justify avoidable population variances), *and Mahan v. Howell*, 410 U.S. 315, 322 (1973) (distinguishing legislative from congressional redistricting on the ground that no excuse other than practical impossibility is recognized for failure to achieve precise equality in the latter), *with White v. Weiser*, 412 U.S. at 797 (plan which comports with state policy and achieves lowest deviation form precise mathematical equality should be chosen). In fact, this Court has never invalidated a congressional district plan which achieves, as does the plan here, the greatest degree of population equality.

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[3] A comparison of the majority-adopted plan and that plan supported by the dissent is set forth below:

1. Majority Plan.
   Total Cumulative Deviation .....76
   Maximum Deviation .....36
   Average Deviation .....9.5
2. Dissent Plan.
   Total Cumulative Deviation .....122
   Maximum Deviation .....24
   Average Deviation .....15.25

The appellants' attempt to justify the inequalities inherent in their plans on the grounds of aesthetic similarity to prior plans must also fail.

Because the district court's redistricting plan comports with this Court's requirements that districts achieve the greatest practicable equality of population, the court's decision must be affirmed.

**2. Minority Voting Strength.**

None of the parties to this action contend that any plan invidiously discriminates against minorities. However, proposed plans were evaluated on the basis of the extent to which they preserved or enhanced the voting strength of sizable concentrations of minority population. *See In re Congressional Districts Reapportionment Cases,* No. 81 C 3915 (N.D. Ill. December 3, 1981), *aff'd. sub nom. Otto v. Ryan,* 50 U.S.L.W. 3546 (U.S. March 30, 1982). [Hereinafter referred to as *"In re Illinois"*]. Because Minnesota minority populations outside the metropolitan area are relatively small and generally scattered, it is difficult to draw congressional districts which comprise significant minority populations. This is particularly true of the state's Indian population. However, a sizable and concentrated community of Hispanics lies in the southern part of St. Paul and its closest southern suburbs. Under the adopted plan, that community remains intact. As a consequence, its voting strength also remains intact. Under the dissenting plan, however, that community would be moderately more divided among those districts which converge near St. Paul.

The effect of any plan on minority voting strength, alone, cannot be considered a decisive factor in this case. Yet, the

plan adopted by the majority better maintains the identity and voting strength of a distinct and concentrated minority community.

### C. The District Court's Decision Properly Reconciles The Demands Of The United States Constitution With Those Of State Policy.

#### 1. The District Court Properly Respected That State Policy Which Recognizes A Metropolitan Community Of Interest And Was Not Required To Blindly Adhere To District Lines Drawn Over A Decade Ago.

The plan adopted by the district court best serves the policies of the state embodied within its constitution and its statutes. *See* Mem. Op., Order and Plan, Appellants' Appendix at 5a. The appellants do not argue that state policies should be ignored by those courts called upon to redistrict a state. Rather, they argue that some of the policies respected by the district court should not have been. They primarily attack the court's respect for that state policy recognizing the metropolitan area surrounding Minneapolis and St. Paul as a distinct community with shared interests.

Despite the appellants' protestations, it is irrefutable that the Minnesota Legislature has designated a metropolitan area and has consistently treated the metropolitan area as a single entity. A regional planning body for the metropolitan area was first established in 1957. Minn. Laws 1957, Ch. 468. Since that time, and particularly in the mid-1970's, the legislature

has often identified uniquely metropolitan interests.[4] The policy of recognizing the metropolitan area is now firmly rooted in the Minnesota law.[5] *See Lifteau v. Metropolitan Sports Facilities Commission*, 270 N.W.2d 749 (Minn. 1978), *City of New Brighton v. Metropolitan Council*, 306 Minn. 425, 237 N.W.2d 620 (1975), *Village of Burnsville v. Onischuk*, 301 Minn. 137, 222 N.W.2d 523 (1974), *appeal den.* 420 U.S. 916 (1975).

It is equally irrefutable that the policy was properly recognized by the district court. The appellants argue that, because the court could have ignored the policy without offense to the Constitution, it was required to ignore it. They also attempt

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[4] For an idea of how vast and comprehensive metropolitan government has become in the last 10 years please see generally: Minn. Stat. §§ 473.01 to 473.872. See also Minn. Stat. § 473.301 (creating a Metropolitan Parks Commission), 473.401 (creating a Metropolitan Transit Commission), 473.501 (creating a Metropolitan Waste Control Commission), 473.551 (creating a Metropolitan Sports Facilities Commission), 473.601 (creating a Metropolitan Airports Commission), 473.122-123 (creating a Metropolitan Council), 473F.01 *et seq.* (metropolitan property tax revenue distribution), 473.171 (applications for federal aid), 473.167 (highway projects), 473.175 (school district capital improvements), 473.203 (metropolitan natural resource preservation), 473H.01 et seq. (metropolitan agricultural preserves), 4.36(2) (distinguishing the metropolitan area from other standard metropolitan statistical areas for recreation grants), 84.90 (special recreation vehicle use restrictions for metropolitan area), 112.431(1) (metropolitan drainage system), 116H.089 (metropolitan community energy planning appropriations), 174.265 (metropolitan transit demonstration projects), 241.62 (battered women shelters), 473.149 (solid waste planning), 473.502 (wastewater treatment). Virtually every one of these agencies has been closely involved in obtaining federal grants, although the Metropolitan Council provides an overall review process. Minn. Stat. § 473.171 (1980).

[5] This is precisely the type of legislative pronouncement of policy the dissenting member of the court in the recent Illinois reapportionment case would have preferred before creating metropolitan congressional districts. *In re Illinois*, slip op. at dissent 4.

to belittle the significance of the policy on the grounds that it was not clearly recognized in Minnesota's 1971 congressional redistricting maps.

The appellants' argument that the policy recognizing a metropolitan community is not entitled to constitutional protection misses the point. This Court has never held that only those state policies coterminous with constitutional rights should be recognized. *Mahan v. Howell*, 410 U.S. 315, 321 (1973), *In re Illinois*, slip op. at 16-26. Further, the lower courts have regularly acknowledged the existence of metropolitan and other communities of interest. *Skolnick v. State Electoral Board*, 336 F. Supp. 839, 845 (N.D. Ill. 1971), *Citizens Committee for Fair Congressional Redistricting, Inc. v. Tawes*, 253 F. Supp. 731 (D.Md.) *aff'd sub nom. Alton v. Tawes*, 384 U.S.315 (1966). *See also Carstens v. Lamm*, No. 81-F-1713 (D.Colo. January 28, 1982).

The appellants also contend that state policies embodied within statute are somehow less significant than those which, they say, are reflected in prior, and admittedly invalid, district plans.[6] No decision of this Court has ever suggested so artificial a distinction. Instead, the lower courts have been admonished to respect state policies "as expressed in statutory or constitutional provision or in reapportionment plans proposed by the State Legislature . . . ." *White v. Weiser*, 412 U.S. at 797.

Statutes no less than state constitutions or prior district maps reveal those things which a state deems important and desirable. In fact, statutes often provide a more direct indication of state policies than do district maps. While substantive

[6] The current plan of Minnesota congressional districts was enacted as Minn. Laws 1971, Ch. 897, § 8.

statutes, such as those pertaining to the metropolitan area, frequently are accompanied by statements of legislative policy and purpose, statutes which embody reapportionment plans rarely are. As a consequence, parties are free to attribute any sort of policy to past district plans. *See* Mem. Op., Order and Plan, Appellants' Appendix at 10a-11a. Old district plans are frequently poor indicators of state policy for other reasons.[7] They reflect only the breadth and depth of a party's political power at the time the plans were drawn.[8] In addition, old plans are based on outdated census figures. Consequently, the extent to which any plan provides a clear statement of con-

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[7] Under the Plan adopted by the Court, four congressional districts are in the rural areas and four are in the metropolitan area. This division is reasonable and necessary because the population of Minnesota is divided approximately one-half in the seven-county Minneapolis-St. Paul metropolitan area and one-half in the rest of the state which is essentially rural.

For many years, most of the metropolitan suburbs were placed into four rural congressional districts. These districts stretched into the suburbs like pieces of pie from the corners of the state. As a result, people living in a bedroom suburb of Minneapolis (such as Coon Rapids) shared a congressman with a fisherman on Lake Superior, an equipment operator from the Iron Range and a forester in Koochiching County on the Canadian border. Persons in the Minneapolis suburb immediately next to Coon Rapids shared a congressman with a farmer living on the southwest border of the state where South Dakota and Iowa meet. The political power of the metropolitan area was diffused; the metropolitan community of interest was not adequately represented.

The plan promulgated in the Court recognizes that the greatest population shifts in this state in the last 10 years have been into the suburban counties. The Plan enables the metropolitan area to no longer share congressional representation. The half of the state's population residing in the metropolitan area will have half the congressional representation.

[8] The current, malapportioned plan, adopted 11 years ago, was drafted by a legislature controlled by a different political party than has controlled the legislature for the last nine years.

temporary state policy depends almost entirely upon its currency.

In this case, there is no clear, contemporary policy embodied within the invalidated district maps drawn more than a decade ago. *See Skolnick*, 336 F.Supp. at 844-45. Nor does a clear statement of policy emerge from the conflicting plans proposed by different houses of the Minnesota Legislature. *Sixty-seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 197 (1972), *In re Illinois*, slip op. at 24. There simply is no current legislative policy regarding congressional reapportionment. Therefore, the district court was not required to blindly adhere to the lines appearing in the prior, 11-year old, district plan.

**2. The District Court Gave Due Regard To Past District Boundaries.**

Contrary to the appellants' contention, *White v. Weiser*, 412 U.S. 783 (1973), suggests no different conclusion. There, this Court held only that district courts must respect, and justify departures from, contemporaneously-drawn legislative plans. Here, there was no contemporary legislative plan. Moreover, the district court used the past plan in fashioning a new one and fully justified its departures from that plan.

Unlike the district court in *White*, the court here took "as the starting point the last configuration of congressional districts" and modified them "only to serve state policy and satisfy the constitutional mandate that one person's vote shall equal another's." Mem. Op., Order and Plan, Appellants' Appendix at 11a. While these modifications may differ from those the appellants would have preferred, they were firmly supported on grounds set forth by the court and discussed above. Moreover, those modifications cannot fairly be characterized as "radical surgery."

The appellants' use of that characterization is little more than a vain attempt to liken this case to those in which a district court has fundamentally altered a state's method of selecting its representatives. This case presents no issue of whether a court may mandate the abandonment of multimember districts, *Whitcomb v. Chavis*, 403 U.S. 124 (1971). Nor does it involve a significant reduction in the size of a state legislature by judicial action. *Sixty-seventh Minnesota State Senate v. Beens*, 406 U.S. 187 (1972).[9] This case involves only the drawing of new congressional district lines in a fashion calculated to respect state policy and achieve equality of representation. The result of the Court's decision are districts which largely resemble those first drawn a decade ago. Compare Figure I with Figures 3, 4, Appellants' Appendix at 13a,

[9] Not only have the appellants incorrectly attempted to characterize this case as one of "radical surgery," they have also argued that the district court sought to impose its own "idealogy" [sic] on the state. Jurisdictional Statement at 11. The appellants' argument, addressed largely ad hominem, commences in the statement of questions presented, and attempts to picture one member of the district court as repeatedly eager to alter the shape of Minnesota politics. Such argument is unfortunate. It is also patently false. At every step of this case, the three judge panel repeatedly and forcefully emphasized its desire to have the legislature perform the legislature's duty. When it was ultimately required to act, the court did so with dispatch and with a clear understanding of its equitable and constitutional obligations. While redistricting cases invariably prompt heated political debate, the debate should remain addressed to the legal issues involved and not the personalities.

It is noteworthy that the plan for reapportioning the state legislature, drafted by the same judges, has not been appealed by any party. *LaComb et al v. Growe et al*, Dist Ct. File No. 4-81 Civ. 152. Opinion filed March 11, 1982. Apparently the judge that counsel for the appellants seek to embarrass—a senior and highly respected member of the 8th Circuit Court of Appeals—did not fall victim to the same "ideology" in that matter.

24a, 25a. The departures from past district lines were clearly justified. They plainly are not deserving of the term "radical."[10]

Not only are the appellants wrong in suggesting that district courts must strictly adhere to outdated and malapportioned district lines, they offer no appropriate method by which to apply such a standard. The appellants argue that "minimal change" can be determined by reference to the degree to which new lines follow old lines. However, such an approach provides no valid measure of what does and what does not constitute a "minimal change." It equates "minimal" change with minimal spatial change without regard to whether the area involved is small but densely populated or large and sparsely populated. When the standard is applied to outdated district plans, the results are particularly objectionable. Such an approach would make it less, rather than more, likely that state policies will be advanced by a redistricting plan. Under such an approach, aesthetic similarity would become the paramount state policy rather than one tool among many for pursuing that policy. Even in *South Carolina Branches of the NAACP v. Riley*, Civ. A. No. 81-2287-6 (D.S.C. 1982), relied on by the appellants, the court did not suggest that it would adhere to old lines at the expense of other state policies. Indeed, the court there departed from past boundaries for some of the same reasons which prompted the Minnesota court to do so. Chief among these was the desire to respect the integrity of metropolitan communities. Slip op. at 9, 13.

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[10] Nor are those plans promoted by the appellants deserving of the term: "minimal change." One such plan, intended to closely adhere to 1971 district lines, would have required shifting more than 338,000 people from district to district. Mem. Op., Order and Plan, Appellants' Appendix at 10a, n. 9.

Adopting a rule that courts must follow existing boundaries would virtually guarantee an appeal in every reapportionment case. "Least change" is probably amenable to many different configurations in every instance. This Court would be required in every instance to make an independent examination of every plan to settle claims over whether the lower court chose the right options.

The only reasonable method by which to assess the propriety of newly-drawn boundaries is by reference to those identifiable state policies which this Court has directed the lower courts to respect. In this case, those policies have been respected and the decision of the district court should be affirmed.

## CONCLUSION

The plan adopted by the district court properly reconciles the demands of the United States Constitution and the policies of the State of Minnesota. The appellants raise no issue which warrants further consideration by this Court. Therefore, appellee Minnesota Secretary of State Joan Growe respectfully moves the Court to affirm the lower court's decision.

Dated: April 23, 1982.

Respectfully submitted,

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# Appendix

# APPENDIX

---

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

---

4-81 Civ. 414

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SHARON LaCOMB, JAMES A. WOOLLEY, and PHILLIP R. KRASS, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

vs.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor, CHARLES R. LE- Dakota County Auditor, on behalf of themselves and all county Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Defendants,

MARTIN JOHNSON, WILLIAM SAVAGE, and PATRICIA WIRTANEN,

Intervenors.

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ORDER

WHEREAS, by Order dated September 14, 1981, the present apportionment of Congressional Districts in Minnesota has been declared unconstitutional; and

WHEREAS, the parties have submitted suggested criteria to be employed in the formulation of a constitutional plan of congressional apportionment; and

WHEREAS, the parties have commented on the suggested criteria;

NOW, THEREFORE, on the basis of all of the files, records and proceedings and the arguments of counsel,

IT IS ORDERED That plans for apportioning the Minnesota Congressional Districts shall be consistent with the following criteria:

1. There shall be eight (8) districts. The population of the districts shall be as nearly equal as possible. The maximum permissible deviation from population equality will be plus or minus one-quarter of one percent (.25%), or 1,274 people.

2. The districts shall be single member, compact and contiguous.

3. The integrity of existing boundaries of political subdivisions of the State will be respected to the extent practicable to minimize division in the formation of a district.

4. Districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of minority representation from areas of sizable concentrations of minority population.

IT IS FURTHER ORDERED That apportionment plans may recognize the preservation of communities of interest in the formation of districts. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.

IT IS FURTHER ORDERED That any plan of apportionment submitted to the Court comply with the following format.

The following will be submitted with any proposed apportionment plan in triplicate:

1. The following maps on which proposed district lines shall be drawn and district numbers entered.

a. A map of the state, showing minor civil division boundaries in counties that are split between districts.

b. A map of the outer metropolitan area showing minor civil division boundaries and census tract boundaries.

c. A map of each municipality not wholly within one district or which contains more than one whole district, showing census tract or enumeration district, block groups or block boundaries, as available.

d. A map of the inner metropolitan area, showing census tract boundaries.

e. Where census tracts are split, sections of city maps showing block boundaries.

f. With respect to each category in this paragraph (1), the parties shall agree by stipulation on the base maps to be used.

2. A table showing the name or number designation and populations of all component units and subunits, where units are subdivided between districts, of proposed districts, listed vertically. For example, whole counties, where not split, shall be listed. Where a county is split, the county name shall be listed, followed by the names and populations of the minor civil divisions of that county within the proposed district. Where a minor civil division is split, its name shall be listed followed by the census tract numbers or the enumeration district identifications and populations within the proposed district. Where a census tract is split, the census tract name shall be shown, followed by the block group number and population. Where a block group is split, block numbers and population shall be listed.

For each split unit or subunit within a district, a subtotal shall be shown.

For each district, the total population shall be shown. Adding machine tapes or other evidence of the addition shall be attached. The numerical deviation from the average (ideal) district size, and the percentage deviation carried out to two decimal places shall be calculated.

As an annex to this table, another table shall be prepared showing how the parts of any split unit or subunit described above assigned to each district add up to equal the population of the next higher unit, including a final addition of districts to a state total, with an explanation of discrepancy or failure to close, if any.

3. A summary of all district totals ranked by percentage deviation, showing the district number, the population, the population deviation and the percentage deviation.

4. A calculation of the ratio between the highest and lowest population districts.

5. A calculation of the mean deviation of all districts.

The court is proceeding pursuant to its order of October 8, 1981 to prepare itself to reapportion the State under the announced schedule should that become necessary. For that purpose, Special Masters have been appointed, computer equipment like that used by the State has been ordered, and clerical personnel have been employed.

The court, however, again emphasizes that the responsibility for reapportionment lies within the legislative and executive branches of the State. Only if they fail to meet their respon-

sibility within the existing time schedule will this court undertake the task.

GERALD W. HEANEY
United States Circuit Judge
DONALD D. ALSOP
United States District Judge
HARRY H. MacLAUGHLIN
United States District Judge

Dated: December 29, 1981.

CONCURRING

The court's order sets forth and adopts basic reapportionment criteria about which there exists no genuine controversy. It provides that all districts be single member, be compact, be contiguous, preserve the voting strength of minority populations, respect boundaries of political subdivisions, and contain a degree of population equality. The order further provides that plans may recognize the preservation of "communities of interest."

In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court.

Dated: December 29, 1981.

DONALD D. ALSOP
United States District Judge

## THE REDISTRICTING PLANS

| | |
|---|---|
| **The State Senate Plan** | |
| Total cumulation deviation | 5,198 |
| Maximum deviation | 1,188 |
| Average deviation | 650 |
| **The Plaintiff's Plan** | |
| Total cumulative deviation | 5,098 |
| Maximum deviation | 1,219 |
| Average deviation | 637 |
| **The Appellants'** | |
| **Plan A** | |
| Total cumulative deviation | 138 |
| Maximum deviation | 41 |
| Average deviation | 17 |
| **Plan B** | |
| Total cumulative deviation | 350 |
| Maximum deviation | 110 |
| Average deviation | 44 |
| **The Majority Plan** | |
| Total cumulative deviation | 76 |
| Maximum deviation | 36 |
| Average deviation | 9.5 |
| **The Dissent Plan** | |
| Total cumulative deviation | 122 |
| Maximum deviation | 24 |
| Average deviation | 15.25 |

## MAJORITY PLAN--MINORITY POPULATION

| DISTRICT | TOTAL POP | Black | % | Indian | % | Asian | % | Other | % | Hispanic | % |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 509,460 | 1,007 | 0.20 | 784 | 0.15 | 2,409 | 0.47 | 1,724 | 0.34 | 3,331 | 0.65 |
| 2 | 509,500 | 288 | 0.06 | 1,008 | 0.20 | 1,622 | 0.32 | 1,341 | 0.26 | 2,508 | 0.49 |
| 3 | 509,499 | 3,274 | 0.64 | 1,171 | 0.23 | 4,619 | 0.91 | 1,739 | 0.34 | 2,932 | 0.58 |
| 4 | 509,499 | 14,825 | 2.91 | 3,109 | 0.61 | 5,585 | 1.10 | 9,872 | 1.94 | 10,151 | 1.99 |
| 5 | 509,506 | 29,776 | 5.84 | 9,482 | 1.86 | 5,510 | 1.08 | 6,304 | 1.24 | 5,544 | 1.09 |
| 6 | 509,505 | 2,114 | 0.41 | 2,054 | 0.40 | 3,822 | 0.75 | 1,785 | 0.35 | 3,414 | 0.67 |
| 7 | 509,495 | 660 | 0.13 | 8,783 | 1.72 | 1,406 | 0.28 | 1,622 | 0.32 | 2,464 | 0.48 |
| 8 | 509,506 | 1,394 | 0.27 | 8,624 | 1.69 | 1,558 | 0.31 | 912 | 0.18 | 1,777 | 0.35 |
| TOTALS | 4,075,970 | 53,338 | 1.31 | 35,015 | 0.86 | 26,531 | 0.65 | 25,299 | 0.62 | 32,121 | 0.79 |

## DISSENT PLAN—MINORITY POPULATION

| DISTRICT | TOTAL POP | Black | % | Indian | % | Asian | % | Other | % | Hispanic | % |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 509,519 | 1,500 | 0.29 | 1,125 | 0.22 | 2,952 | 0.58 | 1,781 | 0.35 | 3,596 | 0.71 |
| 2 | 509,506 | 1,424 | 0.28 | 835 | 0.16 | 2,522 | 0.49 | 2,093 | 0.41 | 3,923 | 0.77 |
| 3 | 509,497 | 3,675 | 0.72 | 1,289 | 0.25 | 5,015 | 0.98 | 1,646 | 0.32 | 2,875 | 0.56 |
| 4 | 509,513 | 14,790 | 2.90 | 3,280 | 0.64 | 5,765 | 1.13 | 9,719 | 1.91 | 9,675 | 1.90 |
| 5 | 509,481 | 29,468 | 5.78 | 9,489 | 1.86 | 5,556 | 1.09 | 6,303 | 1.24 | 5,593 | 1.10 |
| 6 | 509,472 | 500 | 0.10 | 1,226 | 0.24 | 1,672 | 0.33 | 1,246 | 0.24 | 2,051 | 0.40 |
| 7 | 509,507 | 500 | 0.10 | 11,274 | 2.21 | 1,253 | 0.25 | 1,436 | 0.28 | 2,415 | 0.47 |
| 8 | 509,475 | 1,481 | 0.29 | 6,497 | 1.28 | 1,796 | 0.35 | 1,075 | 0.21 | 1,993 | 0.39 |
| TOTALS | 4,075,970 | 53,338 | 1.31 | 35,015 | 0.86 | 26,531 | 0.65 | 25,299 | 0.62 | 32,121 | 0.79 |

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

---

Civil Action No. 81-F-1713

---

JUDITH F. CARSTENS, *et al.*

Plaintiffs,

vs.

RICHARD D. LAMM, *et al.*,

Defendants.

---

Before McWILLIAMS, Circuit Judge, FINESILVER and KANE, District Judges.

[EXCERPTED]

MEMORANDUM OPINION AND ORDER

FINESILVER, District Judge:

In these consolidated cases, the Court is called upon to select a congressional redistricting plan for the State of Colorado. Following the tabulation of the 1980 decennial census, the Clerk of the United States House of Representatives informed the Governor of Colorado that the state, which currently has five representatives in Congress, was entitled to an additional congressional seat. Although the Governor and the General Assembly (sometimes referred to as the "State Legislature") made repeated attempts to develop an acceptable redistricting plan, both parties were unable to agree on the composition of the new districts. These suits were filed by several concerned citizens of Colorado in an effort to break the existing stalemate through judicial intervention.

After reviewing the testimony and evidence presented at trial, we conclude that the current congressional redistricting plan set forth in C.R.S. 1973 §2-1-101 is unconstitutional. The

Court is of the view, however, that none of the plans submitted to the Court during the course of this litigation fully comport with the objectives and criteria which we feel should be incorporated in a judicially approved redistricting plan. As a result, the Court has fashioned its own plan which satisfies the relevant legal criteria and incorporates the most desirable aspects of the plans presented to the Court.

* * * * *

## VI

## THE 1982 COLORADO CONGRESSIONAL REDISTRICTING PLAN

We adopt the 1982 Colorado Congressional Redistricting Plan appended to this opinion and marked as "Exhibit A." This plan creates the following districts:

DISTRICT 1 incorporates the City and County of Denver with the exception of approximately 16,500 persons in the extreme southwest corner of the city. It also includes the Arapahoe County enclaves found within the Denver city limits.

DISTRICT 2 includes Boulder, Gilpin and Clear Creek Counties, northeast Jefferson County, and western Adams County. The cities of Arvada, Broomfield, Federal Heights, Northglenn, Thornton and Westminster are all left intact.

DISTRICT 3 is the largest district in the 1982 Plan. In addition to every county west of the Continental Divide, it contains Jackson, Pueblo and southern Fremont Counties along with those southern counties which comprise the San Luis Valley. It does not include Las Animas County.

DISTRICT 4 is comprised of all major agricultural counties in eastern Colorado, including the greater parts

of interest affected by congressional redistricting. Most important among these are an "east plains" and a "west slope" district, the inclusion of a consolidated Pueblo with the San Luis Valley, and a consolidated City and County of Denver.

A. Population Equality

The 1982 Plan contains a total deviation from the ideal district population of 10 persons, or approximately .0020%. This deviation is clearly within the constitutional parameter set by the Supreme Court. *See* Section V, *supra.*

Only one plan submitted to this Court achieved a more equal balance between the six districts. H.B. 1624 had a total deviation of 7 persons, or approximately .0015%. This figure, however, is merely five one-thousandths of a percent lower than the total deviation achieved by the 1982 Plan. Given the natural margin of error in the actual census figures, there is no appreciable difference between the two plans in terms of population equality.

B. Non-Dilution of Minority Votes

While several of the plans urged upon this court raised the spectre of diluting traditional minority communities, the 1982 Plan attempts wherever practicable to preserve those communities. The congressional districts in the 1982 Plan contain minority populations which range from 9.76% to 33.4%. Due to the large concentrations of minorities in Denver and Pueblo, it is impossible to match the state average of 16.9% minority population in every district, but the 1982 Plan compares favorably with the other plans submitted to the Court.

We felt that it was particularly important to avoid diluting the concentration of minority strength in the City and County of Denver. As noted earlier, the principle of population equality requires a split of at least 16,500 persons from this area. The 1982 Plan makes this minimal division in southwest Den-

ver and thus, to the greatest extent possible, avoids disturbing traditional minority communities. As a result, the congressional district which encompasses the City and County of Denver (District 1) contains slightly over thirty-three percent Black and Hispanic residents.

We also paid close attention to the minority population in Pueblo County for two reasons. First, a very large Hispanic population is spread throughout the City of Pueblo. Any attempt to concentrate this Hispanic population into one congressional district results in a winding, twisting district line which unnecessarily fragments the remainder of the city. Second, there was extensive testimony at trial indicating an historical and practical link between the minority population in Pueblo and the San Luis Valley. *See* Sec. VI, *supra*. A division of Pueblo County between two congressional districts invalidates that historic connection and potentially dilutes minority votes in both districts. For these reasons, we followed a pattern used by many of the proposed plans and included all of Pueblo County with the San Luis Valley in the western slope. This district achieves approximately a nineteen percent minority population, second only to District 1.

C. Compactness and Contiguity

Like all the plans submitted to the Court, the 1982 Plan includes very compact districts in the denver metropolitan area and very large eastern and western districts. These differences reflect the demographic reality that eighty percent of the population of Colorado is centered in the front range counties. Thus, the districts range in size from one county (District 1) to thirty-one counties (District 3). All of the districts in the 1982 Plan are contiguous.

D. Preservation of County and Municipal Boundaries

The 1982 Plan attempts to recognize the importance of both county and municipal boundaries by respecting their integrity to the greatest extent possible given population requirements. The City and County of Denver is the clearest example of this principle. As the capitol of Colorado, Denver has the largest population of any county in the state. It is one of the leading economic, cultural, and transportation centers in the western United States. It is also a center of administrative activity for the federal government. The boundaries of the City and County of Denver are co-extensive and are explicitly defined in the Colorado Constitution. *See* Colo. Const. art. XX, §1 (1973). Moreover, the geographic growth of Denver is severely limited by a constitutional amendment. These practical considerations coupled with persuasive testimony at trial underscore the need to keep Denver as a single congressional district. The 1982 Plan respects Denver's city and county boundaries to the maximum extent possible.

While not constitutionally designated, the boundaries of the rapidly growing municipalities surrounding Denver are no less important. Although several of these densely populated cities are fortuitously split by county lines, those lines should not take precedence over municipal boundaries in this area. By respecting municipal rather than county boundaries in the second congressional district, for example, we prevented the fragmentation of more than 130,000 people in the rapidly growing cities of Arvada, Broomfield and Westminster.

Similarly, almost every plan relied upon the convenience of the Adams-Arapahoe County line to needlessly divide Aurora, the second largest city in the state. The 1982 Plan places a consolidated Aurora in District 6 with the other suburban municipalities surrounding Denver. This is a signif-

icant feature of the Plan. Aurora will most likely play a key role in the growth of Colorado over the coming decade and should be unified for congressional districting purposes.

Unfortunately, our desire to recognize the important municipal boundaries in the Denver metropolitan area results in a three-way split of Jefferson, Adams and Arapahoe counties. We feel these multiple divisions are justified given the stark contrast between the concerns of the expanding municipalities and the outlying rural areas in these counties. Where municipalities serve as the most logical boundaries, that logic should not be sacrificed at the cost of preserving county lines.

The 1982 Plan also geographically divides Fremont county along an east-west line through Canon City for no other reason than to achieve ideal district population in the 3rd and 5th congressional districts. We would have preferred not to split Canon City, but, because the population of the county is centered in Canon City, that result is unavoidable. Every effort was made to split the city along existing geographic landmarks and impartial census enumerator lines to minimize the confusion inherent in dividing any municipality.

E. Preservation of Communities of Interest

Each district in the 1982 Plan was designed to recognize those communities of interest which emerged during trial as most important to effective congressional representation for the citizens of this state. Where necessary, competing interests were balanced in favor of articulated advantages. The result is six congressional districts which reflect well-defined communities of interest.

District 1 is the City and County of Denver. As a much older core urban area, Denver faces problems not shared by its suburban counterparts. Primary among these are the maintenance, and often replacement, of out-dated facilities such

as sewers, streets and viaducts. Additionally, Denver bears the brunt of providing social services, including housing, unemployment, and medical care for much of the metropolitan area. As a single school district, Denver must also confront some aspects of public education which are unique to a core city.

Any split of Denver necessarily divides some existing neighborhood communities. The impact on those communities can be lessened somewhat by the location of that division. Testimony indicated, and we are convinced, that the most logical division is in the Grant Park area of southwest Denver. This split leaves Denver more compact as a congressional district and, more importantly, has a minimal impact on the voting strength of both minority and neighborhood communities.

Just as Denver must deal with the problems inherent in a core city, the surrounding suburban municipalities share common problems incident to young, rapidly growing municipalities. Whereas Denver seeks state and federal assistance to repair and replace services and facilities, the suburbs compete for the same funds to develop and implement relatively new services. The same concerns that place the suburbs in a conflicting posture with Denver form a natural community of interest among all the suburban municipalities. For this reason, District 2 and District 6 of the 1982 Plan seek to consolidate those municipalities.

District 2 combines Gilpin, Clear Creek and Boulder County with the cities in northeast Jefferson and extreme western Adams County. These areas are linked naturally by Highway 36, also known as the Boulder Turnpike. The result is a rapidly growing commercial, technological, and light industrial region with extensive business exchanges between the cities.

District 6 incorporates the remaining cities immediately to the west, south and east of Denver. As noted earlier, the primary advantage of such a district lies in its preservation of municipal boundaries. This district contains two of Colorado's largest and fastest growing cities, Lakewood and Aurora. Consolidation of these cities in the 1982 Plan recognizes the vitality and needs of this region.

There was little, if any, argument at trial that "west slope" and an "east plains" districts should be included in any redistricting plan. Nearly every plan submitted embodied similar configurations for these two large districts.

The "west slope" district under the 1982 Plan (District 3) contains every county west of the Continental Divide. These counties share common concerns of water management, energy production, and environmental conservation. Vast portions of this region are federally owned and controlled which creates a unique relationship with the federal government. *See* Exhibit 8. In addition, Pueblo County and the San Luis Valley are included in District 3. Extensive testimony at trial was directed at demonstrating a natural affinity between Pueblo and the San Luis Valley. *See* Section V, *supra*. No one has contended that those counties have any close connection with agricultural eastern Colorado. Thus, the inclusion of the San Luis Valley in the western slope logically compels the inclusion of Pueblo as well. All of those plans given primary consideration at trial included at least a portion of Pueblo in this region.

District 4 of the 1982 Plan is the so-called "east plains agricultural" district. It is comprised of the major agricultural counties of northern, eastern and southern Colorado. Testimony indicated that eastern Adams and Arapahoe Counties, being dedicated to an agricultural economy, should be included in an east plains district. All of these counties share common

concerns over farm production and subsidies, water management, and soil conservation.

District 5 of the 1982 Plan includes those counties in the predominantly mountainous front range region of central Colorado. The focal point of this district is El Paso County and specifically Colorado Springs. The other counties in District 5 rely heavily on Colorado Springs as a trade, communication and cultural center of the region. In return, Colorado Springs is dependent on the mountainous region for its water and recreation.

## VII
## CONCLUSION

* * * * *

By the Court:

[Signature]

ROBERT H. McWILLIAMS

United States Circuit Judge

[Signature]

SHERMAN G. FINESILVER

United States District Judge

[Signature]

JOHN L. KANE, JR.

United States District Judge

# Supplemental Brief

Office - Supreme Court, U.S.
FILED
NOV 11 1982
ALEXANDER L. STEVAS

No. 81-1770

IN THE

# Supreme Court of the United States

October Term, 1981

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Appellees,*

and

JOAN GROWE, SECRETARY OF STATE OF MINNESOTA,

*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

## SUPPLEMENT TO MOTION TO AFFIRM

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*State Joan Growe*

IN THE

# Supreme Court of the United States

October Term, 1981

No. 81-1770

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Appellees,*

and

JOAN GROWE, SECRETARY OF STATE OF MINNESOTA,

*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

## SUPPLEMENT TO MOTION TO AFFIRM

We respectfully request the Court to consider this Supplement as a response to Appellants' *Brief in Opposition to Motion to Affirm* where, for the first time, Appellants are now asking this Court to summarily order into effect a reapportionment plan proposed by the dissenting judge. They did not ask for this relief in the Jurisdictional Statement; Appellee Growe has not had a previous opportunity to respond.

Appellee Growe emphatically opposes the requested relief for at least two reasons. First, the majority plan, not the dissent's, best conforms to the criteria adopted by all three members of the district court. Second, even if this Court were to invalidate the majority plan and require adoption of a "minimal change" plan, the parties should be permitted the opportunity to submit plans which better achieve that goal than does the dissent's.

Appellants filed this appeal on behalf of certain congressmen seeking to get this Court to protect their incumbency. By obtaining adoption of a plan that least changes their particular congressional boundaries they hope to ensure their reelection notwithstanding large shifts in this state's population.[1] Thus, it is not surprising that the plan they now want summarily ordered into effect purports to make the least changes in the old boundaries. It most nearly matches their so-called "incumbent protection plan" submitted (and rejected) by the trial court. We urge the Court to reject this extraordinary relief.

Of all the reapportionment cases filed with the Court with which we are familiar, the case at bar presents the least substantive claims. The three-judge panel gave the state legislature a great deal of time to reapportion. Only when it was clear that the legislature would be unable to agree with the governor did the lower court adopt a congressional district plan. As compared to the plan proposed and discussed by appellants, the court's plan has the smallest population deviation, was fairest to minorities and most respectful of the legislature's current expression of governmental communities of interest.

---

[1] *See* footnote 9, Memorandum Opinion, Order and Plan for Congressional Districts, dated March 11, 1982. Over 330,000 people need to be moved in order to balance the districts.

Appellee Growe strongly opposes the relief now requested. While it seems very clear that this case is now ripe for summary affirmance, the least desirable relief would result from this Court summarily ordering implementation of a dissenting judge's plan. If this Court decides that henceforth courts must fashion reapportionment plans that make the least changes from the previously malapportioned districts, then the case at bar must be remanded for a hearing. There has never been a hearing on the plan favored by the dissenting judge. Until it appeared as an appendix to the three-judge panel decision,[2] no party had ever been given an opportunity to review it, file comments or suggest changes. At a minimum, the Secretary of State urges that it is not the best plan for accomplishing "least changes."

During the pendency of this case before the three-judge panel all parties were ordered to propose criteria for fashioning the new congressional districts. Appellants asked that the court require that proposed plans follow as close as possible to the existing district lines.[3] The three-judge court—including the dissenting judge—refused to adopt this suggested criteria.[4] As a result, the parties, save appellants, did

---

[2] Memorandum Opinion, Order and Plan for Congressional Districts, dated March 11, 1982, and Appendices D, E and F. [Reprinted in part in Appellants' Jurisdictional Statement at Appendix D.] Apparently the plan preferred by the dissenting judge was one of several drafted by the special masters appointed by the three-judge panel. Dissent, *id.* at 2. The special masters also drafted a plan similar to that adopted by the majority. *Id.*

[3] Intervenors' Statement of Suggested Criteria for Redistricting, at 2 (a copy is attached as Appendix 2). They also urged that "no consideration shall be given to the residences of incumbent members of the Congress . . ." Apparently they don't believe that is a good idea any more.

[4] *See*, Order, dated December 29, 1981 (a copy is attached as Appendix 1).

not submit proposed plans designed to minimize changes from the status quo, nor respond to other plans on that basis. The parties worked for months on the plans proposed to the court. They relied on the criteria set by the court. There was a lengthy hearing on the plans. If a new criteria is now going to be added, all parties should be given a chance to provide input. No less than a commitment to what has been to date a fair and open process dictates that, if there is to be a new plan, it is the result of an open interchange of ideas.[5] Appellants' attempts to get this Court to circumvent the parties and circumvent the lower court should be rejected.

In conclusion, we urge that the lower court be summarily affirmed. Otherwise, the full appellate process should be permitted to take place.

Respectfully submitted,

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*Minnesota Secretary of State*
*Joan Growe*

[5] Candidates for congress have until July 20, 1982 to file in Minnesota.

# APPENDIX

## APPENDIX 1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-81 Civ. 414

SHARON LaCOMB, JAMES A. WOLLEY, and PHILLIP R. KRASS, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

Plaintiffs,

v.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISHCHUK, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Defendants,

MARTIN JOHNSON, WILLIAM SAVAGE, and PATRICIA WIRTANEN,

Intervenors.

### ORDER

WHEREAS, by Order dated September 14, 1981, the present apportionment of Congressional Districts in Minnesota has been declared unconstitutional; and

WHEREAS, the parties have submitted suggested criteria to be employed in the formulation of a constitutional plan of congressional apportionment; and

WHEREAS, the parties have commented on the suggested criteria;

NOW, THEREFORE, on the basis of all of the files, records and proceedings and the arguments of counsel,

IT IS ORDERED That plans for apportioning the Minnesota Congressional Districts shall be consistent with the following criteria:

1. There shall be eight (8) districts. The population of the districts shall be as nearly equal as possible. The maximum permissible deviation from population equality will be plus or minus one-quarter of one percent (.25%), or 1,274 people.

2. The districts shall be single member, compact and contiguous.

3. The integrity of existing boundaries of political subdivisions of the State will be respected to the extent practicable to minimize division in the formation of a district.

4. Districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of minority representation from areas of sizable concentrations of minority population.

IT IS FURTHER ORDERED That apportionment plans may recognize the preservation of communities of interest in the formation of districts. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.

IT IS FURTHER ORDERED That any plan of apportionment submitted to the Court comply with the following format.

The following will be submitted with any proposed apportionment plan in triplicate:

1. The following maps on which proposed district lines shall be drawn and district numbers entered.

a. A map of the state, showing minor civil division boundaries in counties that are split between districts.

b. A map of the outer metropolitan area showing minor civil division boundaries and census tract boundaries.

c. A map of each municipality not wholly within one district or which contains more than one whole district, showing census tract or enumeration district, block groups or block boundaries, as available.

d. A map of the inner metropolitan area, showing census tract boundaries.

e. Where census tracts are split, sections of city maps showing block boundaries.

f. With respect to each category in this paragraph (1), the parties shall agree by stipulation on the base maps to be used.

2. A table showing the name or number designation and populations of all component units and subunits, where units are subdivided between districts, of proposed districts, listed vertically. For example, whole counties, where not split, shall be listed. Where a county is split, the county name shall be listed, followed by the names and populations of the minor civil divisions of that county within the proposed district. Where a minor civil division is split, its name shall be listed followed by the census tract numbers or the enumeration district identifications and populations within the proposed district. Where a census tract is split, the census tract name shall be shown, followed by the block group number and

population. Where a block group is split, block numbers and population shall be listed.

For each split unit or subunit within a district, a subtotal shall be shown.

For each district, the total population shall be shown. Adding machine tapes or other evidence of the addition shall be attached. The numerical deviation from the average (ideal) district size, and the percentage deviation carried out to two decimal places shall be calculated.

As an annex to this table, another table shall be prepared showing how the parts of any split unit or subunit described above assigned to each district add up to equal the population of the next higher unit, including a final addition of districts to a state total, with an explanation of discrepancy or failure to close, if any.

3. A summary of all district totals ranked by percentage deviation, showing the district number, the population, the population deviation and the percentage deviation.

4. A calculation of the ratio between the highest and lowest population districts.

5. A calculation of the mean deviation of all districts.

The court is proceeding pursuant to its order of October 8, 1981 to prepare itself to reapportion the State under the announced schedule should that become necessary. For that purpose, Special Masters have been appointed, computer equipment like that used by the State has been ordered, and clerical personnel have been employed.

The court, however, again emphasizes that the responsibility for reapportionment lies within the legislative and executive branches of the State. Only if they fail to meet their

responsibility within the existing time schedule will this court undertake the task.

GERALD W. HEANEY
United States Circuit Judge
DONALD D. ALSOP
United States District Judge
HARRY H. MacLAUGHLIN
United States District Judge

Dated: December 29, 1981.

CONCURRING

The court's order sets forth and adopts basic reapportionment criteria about which there exists no genuine controversy. It provides that all districts be single member, be compact, be contiguous, preserve the voting strength of minority populations, respect boundaries of political subdivisions, and contain a degree of population equality. The order further provides that plans may recognize the preservation of "communities of interest".

In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court.

Dated: December 29, 1981.

DONALD D. ALSOP
United States District Judge

APPENDIX 2

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

4-81-Civ-414

SHARON LaCOMB, et al.,

Plaintiffs,

vs.

JOAN GROWE, Secretary of State of Minnesota, et al.,

Defendants,

LAVERNE ORWOLL, et al.,

Intervenors.

INTERVENORS' STATEMENT OF SUGGESTED CRITERIA FOR REDISTRICTING

Pursuant to the Court's Order of October 8, 1981 requesting the parties to submit suggested criteria to be used by the Court in the redistricting process, Intervenors Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnobrich, Henry Berghuis and Dorothy Nelson respectfully submit the following statement and request the Court to adopt the same as the criteria for the redistricting of Minnesota's congressional districts:

> "The Court states its intention to adopt a plan of redistricting Minnesota's congressional districts so that the districts shall be not overlapping, compact, contiguous, and equal in population according to the latest available census figures provided by the United States

Bureau of the Census. Consistent with, and subservient to, the basic principle of equality of population, the plan will respect concentrations of identifiable and 'protected' racial minorities so as to not fragment their voting strength; preserve the integrity of existing political subdivisions; and avoid voter confusion by maintaining, wherever possible, existing congressional district lines. No consideration shall be given to the residences of incumbent members of the Congress or to the voting patterns, political or otherwise, of electors."

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# Motion to Dismiss or Affirm

2

Office - Supreme Court, U.S.
FILED
APR 26 1982
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CLERK

No. 81-1770

IN THE

# Supreme Court of the United States

October Term, 1981

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Intervenor-Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Plaintiff-Appellees,*

and

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISCHUK, Dakota County Auditor,

*Defendant-Appellees.*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

## MOTION TO AFFIRM OF APPELLEES SHARON LaCOMB, ET AL. PURSUANT TO SUPREME COURT RULE 16

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224-7631 — Review Publishing Co., 287 E. 6th St., St. Paul, Minn. 55101 — 224-7631

## QUESTIONS PRESENTED

These appellees respectfully submit that a fair statement of the questions presented without useless "color words" may be stated as follows:

1. May a United States District Court in adopting a plan of Congressional Redistricting draw a plan which most closely adheres to the constitutional standard of population equality without being bound by the old district lines?

2. Were the 1971 Congressional District lines entitled to greater weight than that accorded them by the district court in selecting its plan of Congressional Redistricting?

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IN THE

# Supreme Court of the United States

October Term, 1981

No. 81-1770

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Intervenor-Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Plaintiff-Appellees,*

and

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISCHUK, Dakota County Auditor,

*Defendant-Appellees.*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

## MOTION TO AFFIRM OF APPELLEES SHARON LaCOMB, ET AL. PURSUANT TO SUPREME COURT RULE 16

## MOTION

Plaintiff-appellees, Sharon LaComb and James A. Woolley, hereby respectfully move this Court pursuant to Rule 16, United States Supreme Court Rules for an Order affirming summarily the Judgment of the United States District Court for the District of Minnesota dated March 11, 1982, here appealed from.

Plaintiff-appellees submit the attached Memorandum Brief in support of their motion.

## JURISDICTION

These appellees agree that this Court has jurisdiction to hear all issues presented by the appeal. They respectfully submit, however, that the Questions Presented in the Jurisdictional Statement are so insubstantial and are so controlled by well settled precedents of this Court that further review or argument is not warranted and that this Court should summarily affirm the Judgment of the United States District Court for the District of Minnesota pursuant to Rule 16(c) of the Rules of the Supreme Court of the United States.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

These appellees concur in the Statement of Constitutional and Statutory Provisions Involved as the same are listed in appellants' Jurisdictional Statement at pp. 2-4.

## COUNTER STATEMENT OF THE CASE

Because appellants' Jurisdictional Statement contains many statements *de hors* the record, appellees LaComb, et al. submit the following Counter Statement.

This action was commenced by these appellees on July 14, 1981. The complaint sought a judicial determination that the Minnesota congressional districting statute, Minn. Stat. 1971, §§2.731 through 2.811 inclusive was unconstitutional under the standard of *Wesberry v. Sanders*, 376 U.S. 1 (1966) and its progeny. Specifically, these appellees requested (1) the convocation of a three-judge court pursuant to 28 U.S.C. §2284; (2) a declaration that Minn. Stat. §§2.731 through 2.811 were unconstitutional; (3) an injunction prohibiting the holding of congressional elections uder the invalid statutes; and (4) notification to the State of Minnesota that if it did not adopt a constitutionally valid plan of congressional redistricting, the district court would do so.

On September 15, 1981, the district court granted the relief requested by these appellees. Thereafter, appellants moved for intervention solely for the purpose of representing the Republican Party of Minnesota in proposing a plan of congressional redistricting. That intervention was permitted.

Following an initial hearing, the district court issued its Order pursuant to a motion by these appellees fixing a time schedule for processing of the case. A second hearing was thereafter held to establish the criteria to be used by the court in fashioning remedial relief to be ordered in the event that the state legislature did not adopt a constitutionally valid plan of congressional redistricting. Prior to that hearing, the parties were afforded an opportunity to present proposed criteria and to comment on the criteria proposed by others.

Thereafter, the parties, intervenors and amicus curiae were allowed to propose plans and to comment on the plans submitted by others. Finally, oral argument was granted to all parties in support of or opposition to submitted plans.

On March 11, 1982, the final plan of congressional redistricting was adopted. In promulgating its plan,[1] the district court continued to invite the legislature to adopt its own plan if dissatisfied with the court's judgment.[2]

## PLANS SUBMITTED

Four plans were submitted to the court for consideration: one each by plaintiff-appellees and amicus curiae Seventy-Second Minnesota State Senate; and two by the intervening Republicans (drawn by an employee of the Republican National Committee). The court rejected each of these plans and adopted its own. As noted in the Jurisdictional Statement (pp. 6-7), the court's plan has a significantly smaller deviation than any of the plans submitted. While the court's plan may not be ideal as far as these appellees are concerned,[3] it does adhere much closer to the one person—one vote criterion than any other plan and does meet faithfully other non-population criteria.

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[1] Jurisdictional Statement pp. 27a-52a.

[2] The same invitation had been issued by the court at every step in the proceeding, all to no avail.

[3] These appellees proposed a plan with a population deviation of .24% but which divided only two of eighty-seven counties.

## THE APPEAL PRESENTS NO SUBSTANTIAL FEDERAL QUESTION

### Introduction

Article I, §2 of the Constitution, which provides that Representatives shall be chosen "by the People of the several States" and shall be "apportioned among the several States . . . according to their respective Numbers," makes "equal representation for equal numbers of people the fundamental goal for the House of Representatives". *Wesberry v. Sanders*, 376 U.S. 1, 17-18 (1964).

In the handful of congressional redistricting cases decided since *Wesberry*, this Court has indicated that numerical equality continues to be of paramount concern. In *Kirkpatrick v. Preisler*, 394 U.S. 526 (1969), the Court expressly rejected the notion that there could be a fixed *de minimus* population variance that would pass constitutional muster. Id. at 530-531. It is now clearly recognized that in congressional redistricting cases "population equality appears now to be the paramount, if not the sole criterion on which to adjudge constitutionality . . ." *Chapman v. Meier*, 420 U.S. 1, 23 (1975). In conformity to that overriding criterion, the district court adopted its plan. Its judgment should not be disturbed.

At the outset, it is noted that only the Republican party intervenors object to the district court's plan.[4] Plaintiff-appellees who commenced the action below when it appeared

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[4] Appellants' groundless personal attack (Jurisdictional Statement p. i) on one of the members of the district court panel, a respected and experienced member of the federal appellate bench, gives no additional weight to their arguments.

that the state would not pass a new redistricting statute, do not object to the court's plan; defendant-appellees, the elected officials of the state, charged with the duty of carrying out state policies and laws do not object; amicus curiae, Seventy-Second Minnesota State Senate does not object; the Minnesota House of Representatives did not seek to appeal and has voiced no objection[5] to the district court's plan.

Indeed, the State of Minnesota does not agree at all that its "policies" have been violated by the district court's judgment. These appellees submit that appellants do not seek to protect some undescribed state policy, but only to further a partisan interest. For this reason, as well as those that follow, the issues sought to be raised do not present substantial federal questions within the meaning of Supreme Court Rule 16(c) and, therefore, the judgment below should be affirmed, summarily.

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[5] See letter dated April 10, 1982 from The Speaker of the Minnesota House of Representatives (A-1).

## I. A FEDERAL DISTRICT COURT IN ADOPTING A PLAN OF CONGRESSIONAL REDISTRICTING MUST CHOOSE THE PLAN WHICH MOST CLOSELY ADHERES TO POPULATION EQUALITY WITHOUT BEING BOUND BY THE OLD DISTRICT LINES.

Appellants do not challenge the district court's determination that Minnesota Statutes 1971, §§2.731 through 2.811 are unconstitutional and should not be used *for any purpose*. Nor do they challenge the district court's authority to draft a state congressional redistricting plan when the state fails to do so itself. Appellants do not claim that the specific plan adopted by the court below itself violates any provision of the United States Constitution. Indeed, they do not even contend that the court's plan runs afoul of any provision of Minnesota law or constitution.[6] The only (and very narrow) challenge appellants make to the district court's plan is that it does not adhere closely enough to the previous (1971) plan of redistricting. Even if that argument were factually true, it would not create a substantial federal question, particularly in light of the faithfulness of the court's plan to the one person—one vote mandate of the United States Constitution. *Wesberry v. Sanders, supra*; *Kirkpatrick v. Preisler, supra.*

Appellants' jurisdictional statement would have this Court create a new non-population criterion called "adherence to old district lines" and raise that criterion to a level of importance higher than population equality. No authority is cited to sustain that novel proposition. Appellants' use of catch words like "drastic departure" (p. 6), "radical departure" (p. 9),

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[6] Compare *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187 (1972), where the district court's plan was found to violate a specific state statute (not invalid itself) fixing the number of legislative districts.

"radical surgery" (p. 12), "cavalier usurpation" (p. 8), "radically reshape" to describe the court's plan and "least changes" (p. 6), "minor adjustments" (Id) to describe their own plan, does not make their issue any more substantial. The discretion vested in the district court is sufficient to withstand such baseless labels, particularly in the absence of any legislative or state objection to the district court's plan. Cf. *Illinois Congressional Redistricting Cases*, sub.nom. *Ryan v. Otto*, —— U.S. ——, 50 U.S.L.W. 3546 (January 12, 1982).

The arguments made here by appellants have already been rejected in *Skolnick v. State Electoral Board*, 336 F.Supp. 839, 844-845 (N.D. Ill. 1971) and *Dunnell v. Austin*, 344 F.Supp. 210 (E.D. Mich. 1972). The refusal of the court below to adopt the "core principle" (use of old districts) is thus not novel and presents no substantial federal question. Likewise judicial recognition of the concept of metropolitan and non-metropolitan districts is not new. See e.g. *Dunnell v. Austin*, 344 F.Supp. 210, 216 (E.D. Mich. 1972); *Maryland Citizens Committee for Fair Congressional Redistricting v. Tawes*, 253 F.Supp. 731, 735 (D.Md. 1966) aff'd sub.nom. *Alton v. Tawes*, 384 U.S. 315 (1966).

Deviation from population equality for the purpose of adhering to old district lines (or existing political boundaries) is not justified. *Kirkpatrick v. Preisler*, 394 U.S. 526 at 533-34. There is no constitutional reason to make those old lines more important than population equality, as appellants here contend. The only constitutional requirements that this Court has expressly found in congressional apportionment cases is that the population of each district must be as equal as practicable and that there may not be racial discrimination. The plan adopted by the court below best meets that population criterion, without a doubt. Its judgment should be affirmed summarily.

## II. THE CONGRESSIONAL DISTRICT BOUNDARIES CREATED BY THE 1971 REDISTRICTING PLAN ARE NOT ENTITLED TO GREATER WEIGHT THAN POPULATION EQUALITY AND OTHER NON-POPULATION FACTORS IN COURT ORDERED CONGRESSIONAL REDISTRICTING.

As demonstrated above, appellants' position is that the congressional district boundaries of the 1971 redistricting plan are somehow sacrosanct. Appellants label those boundaries as "state policy". That "policy" is then argued to be more important than adhering to population equality.[7] The fact that the district court's plan comes closer to absolute equality than does appellants' two partisan plans is ignored in the name of the wispish "state policy". These appellees submit that such an "issue" is neither substantial nor a federal question.

It is not a federal question at all because, as appellants themselves note, "the constituency of a congressional district is entirely a matter of state policy without federal constitutional implication." (Jurisdictional Statement at pp. 13-14). It is not a federal question because the district court did not ignore any state policy or statute. There is no constitutional question because the district court sought only to implement a plan which "best honors discernible state policy" (Jurisdictional Statement p. 8a).

The primary federal question at issue in this litigation was whether or not Minn. Stat. §§2.731 through 2.811 violated the

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[7] If the appellants mean only that the 1971 plan "should have guided the court" below (Jurisdictional Statement p. 10, 11), there is no issue at all presented here, for the district court was so "guided". (Jurisdictional Statement p. 11a).

one person—one vote constitutional principle or not. The district court found that it did and no one appeals from that determination. If the district court had, in fashioning affirmative relief for these appellees, itself violated a federal constitutional prescription,[8] arguably there would be a federal question for review. That is not the situation in the case at bar and hence, there is no federal question for review.

In all events, there is no substantial federal question within the meaning of Supreme Court Rule 16(c). Appellants rely on *White v. Weiser*, 412 U.S. 783 (1973) in support of their contention that the district court was required to give extra weight to the boundaries of the 1971 plan of redistricting that it had already found (and appellants concede) to be unconstitutional. In *White v. Weiser, supra*, however, this Court held that the district court should have adopted that plan which, consistent with the one person—one vote rule, most clearly resembled the newly adopted legislative plan, S.B. 1. The court's holding was based upon its conclusion that Plan B (rejected by the district court) "to a greater extent . . . adhered to the desires of the state legislature while attempting to achieve population equity . . ." 412 U.S. 783 at 795. In this case, unlike *White*, we have no current statement of state legislative desire or policy (Jurisdictional Statement pp. 10, 10a). There is thus no "S.B. 1" against which to measure alternate plans.

Furthermore, *White* clearly does not stand for the proposition that implementation of a legislatively approved plan (even if one had been presented in this case) is more important than population equality. Finally, the plan adopted by the district court in *White v. Weiser, supra*, did not achieve popu-

[8] See e.g., *Chapman v. Meier*, 420 U.S. 1, 21-26 (1975).

lation equality as well as the plan modeled on the state's legislative proposal. In our case, the district court's plan achieves such equality to a far greater degree than any other plan.

*Whitcomb v. Chavis*, 403 U.S. 124 (1971), relied upon by appellant is also inapposit. In *Whitcomb*, this Court reversed the trial court's dismantling of legislatively adopted multimembered districts; a state statutory policy. Nothing in *Whitcomb*, however, requires a district court to adopt multimember districts in judicially mandated plans. Indeed, just the opposite is true—a court ordered reapportionment plan must avoid use of multimembered districts, *Chapman v. Meier*, 420 U.S. 1, 20-27 (1975). In this case, the district court disestablished no state plan and intruded upon no current state policy. The district court's plan most clearly adheres to the plan adopted by amicus curiae Seventy-Second Minnesota State Senate. While that plan is only "proffered current policy", *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 197, it is some evidence of the will of the people.[9] More importantly, the old districts found invalid by the district court are not contended to be current state policy by the state, the legislature or any party other than the appellants. Calling the old, invalid map "state policy" does not make it so.

There is nothing in the old district map which rises to the level of policy. Policy connotes guiding principles. The political compromises of the 1971 plan cannot be said to be guiding principles for 1981. Simply put, there is no statement of current legislative policy anywhere in Minnesota law limiting or describing contours of the new districts to be drawn.

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[9] *Preisler v. Secretary of State of Missouri*, 341 F.Supp. 1158 aff'd sub.nom. *Danforth v. Preisler*, 407 U.S. 901 (1972).

The court below was best able to discern current state policy.[10] Adoption by the district court of fragmented districts running from the Canadian border to the center of the metropolitan area or from the Iowa border to the border of St. Paul (as urged by appellants) is not required in the name of state policy, particularly where the state is before the court arguing that it doesn't want such fragmented districts. The court adopted compactness of districts as a criterion. That is a state policy. Minn. Const. Article IV, Section 3. Appellants joined in suggesting that criterion. The district court followed it. Appellants' plan and the dissent's plan do not follow that criterion as well as the court's plan. These appellees and the Seventy-Second Minnesota State Senate suggested recognition of the metropolitan area as a criterion. That is state policy, too. See; Minn. Laws, 1957, Ch. 468, e.g. Minn. Laws, 1975, Ch. 13. The district court followed that criterion also. Appellants did not. Appellants apparently wanted the district court to consider only those elements of state policy selected by them. They choose to ignore the court's careful review of and adherence to the state policy involving compactness, the state policy regarding the existence and importance of the metropolitan region and its recognition of state policy of affording equal representation to all regions of the State.

Appellants contend, therefore, that only one "state policy" was not followed by the district court, to-wit: the 1971 congressional lines. It is clear, however, that the district court did in fact give recognition to the last configuration of congressional districts, *as a starting point*, modified to achieve

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[10] State policy is recognized to mean *current* state policy. *Chapman v. Meier*, 420 U.S. 1, 25 (1975). ("It is far from apparent that North Dakota policy *currently* requires or favors strict adherence to political lines".) (Emphasis added.)

population equality (Jurisdictional Statement p. 11a). Indeed, most of Minnesota's eighty-seven counties are wholly or mostly the same district as they were under the 1971 plan. Other counties that were divided into more than one district under the 1971 plan are reunited under the court's plan. Further, the court's plan splits very few outstate counties (Jurisdictional Statement p. 11a). It leaves one district in each of the four outstate quarters of the state and one district each in the St. Paul and Minneapolis areas. There is, thus, no basis in fact for arguing that the district court ignored the pre-existing lines, whether or not they were constitutionally required to consider them.

In reality, appellants are left to argue that the district court did not follow pre-existing congressional district lines in the manner or to the extent that appellants would have wished them to do so. They are, thus, reduced to asking this Court to redraw the congressional district lines in some unarticulated manner "better" than that done by the district court. This Court has never concerned itself with specific line drawing. That function is best left to district courts in those situations where the judiciary is forced to act in place of the state legislature.

Appellants label their plans "minimal change". The district court correctly concluded that there is no basis in fact for that label. Jurisdictional Statement at p. 10a. In all events, the issue of whether or not any particular plan of redistricting contains more or fewer changes from the pre-existing plan than any other plan, even if an issue of constitutional magnitude (which no court has ever found it to be) is so void of objective measure and so fraught with partisan consideration, that it should not be considered in a case such as this, where it was not an ordered or agreed upon criterion for consideration of plans.

If representatives in congress are to represent people, not acres or trees, the districts from which they are elected must be shaped to fit the reality of where people live, not where they previously lived or might have lived.

Of all the plans considered by the court, the one adopted comes closest to actual population equality, divided few counties and best met the criteria for redistricting agreed upon by all parties. There was not any evidence before the court that would have justified departure from a population equality standard for the purpose of strict adherence to the boundary lines of an admittedly unconstitutional apportionment. Cf. *Connor v. Finch*, 431 U.S. 407, 419-420 (1977). No substantial federal question is thus presented.

## SUMMARY

Because the district court violated no Federal or Minnesota constitutional or statutory provision in formulating its plan of congressional redistricting; because the court's plan best meets the population equality criterion and non-population criteria; and because state authorities are satisfied with the plan adopted, it should be affirmed summarily pursuant to Supreme Court Rule 16(c).

Respectfully submitted,

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*LaComb, Woolley*

# Appendix

# APPENDIX

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MINNESOTA HOUSE OF REPRESENTATIVES
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April 20, 1982

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Re: LaComb, et al. v. Growe, et al.

Gentlemen:

As Speaker of the Minnesota House of Representatives, I have examined the plan of congressional redistricting adopted by the United States District Court for the District of Minnesota in the above referenced action. I have also discussed that plan with other leaders of the Minnesota House of Representatives.

Based upon that review and discussion, please be advised that the leadership of the Minnesota House of Representatives does not object to the adoption and implementation of the District Court majority's plan of congressional redistricting.

We have also examined the plans proposed by the Intervenors Orwoll, et al. and by the dissenting judge and do not find them to be superior in any manner. In that connection, I would also advise you that Representative Paul McCarron, Chairman of the Minnesota House of Representatives Committee on Reapportionment and Elections, has examined the Orwoll Plan A and does not find it to be the same as the plan he proposed to the House of Representatives.

You are authorized jointly or individually to incorporate our position in your submissions to the United States Supreme Court in support of the District Court's plan.

Sincerely,

HARRY A. SIEBEN, JR.
Speaker of the House

HAS:ckh

# Appellant's Reply Brief

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CLERK

No. 81-1770

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1981

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LAVERNE ORWOLL, WILMA GROVE, DAVID A. BRODEN, DONNE DENKINGER, CARROLYN ANDERSON, JOHN SCHROBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

v.

SHARON LACOMB, JAMES A. WOOLEY, PHILIP R. KRASS,

*Appellees.*

---

**On Appeal From The United States District Court For The District Of Minnesota, Fourth Division**

---

## APPELLANTS' BRIEF IN OPPOSITION TO MOTION TO AFFIRM

---

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1981

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No. 81-1770

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LAVERNE ORWOLL, WILMA GROVE, DAVID A. BRODEN, DONNE DENKINGER, CARROLYN ANDERSON, JOHN SCHROBRICK, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

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**On Appeal From The United States District Court For The District Of Minnesota, Fourth Division**

---

## APPELLANTS' BRIEF IN OPPOSITION TO MOTION TO AFFIRM

---

### INTRODUCTION

Appellants, LAVERNE ORWOLL, WILMA GROVE, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHROBRICK, HENRY BERGHUIS, and DOROTHY NELSON, by their attorneys and pursuant to Supreme Court Rule 16.5 respectfully request the Court to deny the motion of Appellees Sharon LaComb, James A. Wooley, and Joan Growe to affirm, and to enter an order reversing the judgment of the district court or noting probable jurisdiction.

**I. Population Equality**

The Motions filed by the Appellees and the Amicus Brief of the State Senate correctly argue that population equality among districts should be the paramount concern of the drafter in devising a Congressional redistricting plan. However, the Appellees and Amicus grossly mischaracterize the issue before the district court as a choice between strict population equality and deference to the existing statute. Appellees do not, and they cannot genuinely, contend that the basic district configuration enacted in 1972 renders population equality unavoidable. Thus, the choice confronting the court below was between a "least changes" plan which attained population equality while following established state policy, or an entirely new configuration which attained population equality while substituting the court's own reapportionment preferences for those of the legislature. Insofar as the court chose the latter path, it exceeded the scope of federal judicial authority, which in the realm of state redistricting is strictly circumscribed by the specific federal constitutional violation. *Upham* v. *Seaman*, 50 USLW 3800 (1982); *White* v. *Weiser*, 412 U.S. 783 (1973).

Appellants' advocacy of a minimal change approach does not introduce a new concept or criterion to the body of reapportionment law. Our position recognizes a fundamental concept of federalism and of constitutional decision-making. The Court has held squarely in other contexts that a federal court may not alter a state statute except to address and remedy a federal constitutional infirmity. *See, e.g., Parkham* v. *Hughes*, 99 S.Ct. 1742 (1979); *Hill* v. *Tennessee Valley Authority*, 549 F.2d 1064 (5th Cir. 1979), *aff'd*. 437 U.S. 153.

The Court's recent decision in *Upham* v. *Seaman* recites this basic philosophy:

> Whenever a District Court is faced with entering an interim reapportionment order that will allow elections to go forward it is faced with the problem of "reconciling the

> requirements of the Constitution with the goals of state political policy." *Connor* v. *Finch*, 431 U.S. at 414. An appropriate reconciliation of these two goals can only be reached if the District Court's modifications of a state plan are limited to those necessary to cure any constitutional or statutory defect. 50 U.S.L.W. at 3801.

The Appellees' fabrication of an irreconcilable conflict between the goals of population equality and minimum departure from established state policy is patently transparent. It merely serves to elucidate the lower court's modus operandi: The decision was first made to reconfigure the existing districts consistent with the court's theory that the metropolitan area should be afforded proportional representation. The Court then drew a plan meeting the requirements of one man — one vote. Appellants submit that the district court should have determined the constitutional defect of the existing plan and then modified those lines only as necessary to bring the districts into compliance with the mandate of population equality. Such a plan, making only minor changes in the existing districts in order to achieve population equality, was in fact prepared by the Special Masters; it is available for implementation.

**II. Population Deviations Of The Plans Before The Court**

Counsel for Appellees' clearly misrepresents the facts when he asserts that the plan adopted by the court has a "*significantly smaller deviation* than any of the plans submitted," adheres "*much closer* to the one person one vote criterion than any other plan" (Appellees' Motion, p. 4), and "achieves such [population] equality to a *far greater* degree than any other plan" (Appellees' Motion p. 11, emphasis added). Each of the eight

districts should contain 509,496 persons. The deviations of the plans are as follows:

| | | |
|---|---|---|
| 1. | Majority Plan | |
| | Total Cumulative Deviation | 76 |
| | Maximum Deviation | 36 |
| | Average Deviation | 9 |
| 2. | Plan of Special Masters (Dissent) | |
| | Total Cumulative Deviation | 122 |
| | Maximum Deviation | 24 |
| | Average Deviation | 15 |
| 3. | Plan A (Appellants) | |
| | Total Cumulative Deviation | 138 |
| | Maximum Deviation | 41 |
| | Average Deviation | 17 |
| 4. | Plan B (Appellants) | |
| | Total Cumulative Deviation | 350 |
| | Maximum Deviation | 110 |
| | Average Deviation | 47 |

When the "average deviations" of these plans are compared in the context of an ideal district exceeding 509,000 persons, it is obvious that each approximates "mathematical exactness or precision."

### III. The Radical Nature Of The Court's Departure

The Appellees and Amicus adopt the alternative position that the Court plan does not represent a radical departure from the legislature's last enactment. The segregation of the metropolitan area, however, *is* a novel approach to the configuration of Congressional districts in Minnesota.[1] The true magnitude of

---

[1] The political history of the prior plans (1961, 1971) and the consequences of a shift to any four-four plan is summarized by the affidavit of Congressman William Frenzel. The affidavit constituted part of the record below and is included here as an Appendix. See 1a.

the change is reflected in the dissenting opinion below. Judge Alsop states that the majority's plan:

— "totally alters the basic configuration of congressional districts in the State of Minnesota as it has existed for twenty years."

— "makes drastic and constitutionally unnecessary changes in the existing districts established by the Minnesota Legislature in 1971."

— "is radically different from any plan ever in effect in this state. Even assuming that its adoption was not politically motivated, the plan will in all likelihood have radical political ramifications."

— "[makes] a drastic change in the configuration of existing districts."

— "[does] unnecessary violence to the heart of existing districts."

— "effectively destroys existing constituency-representative relations and results in 'contests between present incumbents.' "

— "desecrate[s] existing boundaries and ignore[s] established state policy."

— "is judicially unprecedented and constitutionally unnecessary." (Jurisdictional Statement, at 14a-22a).

**IV. Irrelevance Of The Parties' Approval**

It is contended that the fact that the Secretary of State, the Senate, the Speaker of the House[2] and the private Plaintiffs approve of the Court-ordered plan, renders it valid, or at least

---

[2] The Speaker's letter of April 20, 1982, to counsel for Appellees written in support of the Court's plan is not properly a part of the record. It should be noted that the Speaker was one of 104 members of the House which overwhelmingly, and on a bipartisan basis, approved the McCarron plan. *See* House Journal for January 21, 1982 Appendix at 5a. (The McCarron plan is a minimal change plan referred to as Plan B in the Majority Opinion).

fairly reflective of state policy.[3] While the opinion of these individuals would be of interest to a legislature engaged in the redistricting process, it is not the test subsequently applied to a court-drafted plan. The legislature is the body uniquely suited to the task of identifying state policy. Failure of the federal court to restrict its remedy to the constitutional infirmity permits private parties to accomplish by judicial fiat what they could not achieve through the legislative process. Moreover, in this case it has invited the Senate to use judicial authority to legislate unicamerally.

No determination of constitutional or statutory deficiencies dictated the reconfiguration. Had the lower court made such a determination, an evidentiary hearing should have preceded any adoption or rejection of the policies advocated by the parties.[4] While the court's acuity in prescribing state policy in this particular instance is not the real issue, as the dissenting opinion points out, the majority's attempt is not entirely successful.

> The first reason for adopting a four-four plan is that such a plan "recognizes the fact, after the population changes of the last decade, that essentially one-half of the people of Minnesota live in the metropolitan area and one-half live in outstate Minnesota." The majority correctly notes that the seven-county metropolitan area currently constitutes 48.7% of the state's population. It should also be noted that, in 1970, the seven-county metropolitan area consisted of 49.3% of the state's population. Furthermore, in 1971, with 49.3% of the state's population in the metropolitan area, the state legislature did not deem it necessary

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[3] Identical arguments were made to, and rejected by, this Court in *Sixty-Seventh Minnesota State* v. *Beens*, 406 U.S. 187 (1972).

[4] The Appellants' motion below for an evidentiary hearing was denied. *See* the Court's order at Appendix, at 6a.

> to adopt a congressional reapportionment plan based upon four metropolitan districts and four outstate districts. Yet, today, the majority attempts to premise the judicial establishment of such a plan on the basis of a proportional metropolitan population which is actually less than that which existed in 1970. (Jurisdictional Statement at 20a.)

The prudence of deferring to legislative expertise in matters of reapportionment waxes.

## CONCLUSION

Appellants respectfully request that this Court summarily reverse the decision of the district court, and order into effect the minimal change plan prepared by the Special Masters or in the alternative, grant plenary review of this case and enter an order noting probable jurisdiction.

Respectfully submitted,

JERRIS LEONARD
*Counsel of Record for Appellants*
RICHARD H. KYLE
KATHLEEN HEENAN

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BRIGGS AND MORGAN
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612/291-1215

# Appendix

# APPENDIX

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

---

**4-81 Civ. 414**

---

SHARON LACOMB, *et al.*

*Plaintiffs,*

v.

JOAN GROWE, Secretary of State of Minnesota, *et al.*

*Defendants,*

LAVERNE ORWOLL, *et al.*

*Intervenors.*

---

**Affidavit Of Congressman William Frenzel**

Comes now the affiant, Congressman William Frenzel and being duly sworn states as follows:

1. That he is William Frenzel, a member of the United States Congress representing Minnesota's Third Congressional District.

2. Plaintiff's plan and the plan designed by the Democratic Chairman of the Minnesota State Senate Committee on Elections and Reapportionment, Peter Stumpf, are of the same brush. Under their plans, an accepted, well-understood, twenty year system for congressional districts is unnecessarily upset. They would replace an orderly system, crafted in a bipartisan fashion in 1961 and 1971, with partisan disruption. They ask the Court to do through judicial fiat what they cannot accomplish through the legislative process.

3. Historical perspective is in order. When the Legislature successfully redistricted in 1961 the House of Representatives was controlled by the Democrats and the Senate was controlled by the then Independent Conservative Caucus, the predecessors of the Independent Republicans. The House and the Senate agreed on a plan which would balance three Democrat Congressional seats with three

Republican Congressional seats, and two "swing" seats. This plan was signed by the Republican Governor at the time.

4. During the following decade that bipartisan plan adopted by the Minnesota Legislature proved to be competitive. Minnesota's Congressional delegation was split evenly with four Democrats and four Republicans for three Congresses. During the other two Congresses the delegation was split five to three in favor of Republicans.

5. The Minnesota Legislature successfully redistricted again, in 1971. The House and the Senate were controlled by Republicans, but the Governor was a Democrat. The Legislature produced a plan which followed the form of the previous Congressional redistricting, with minor changes to account for population shifts. That plan was signed into law by the Democratic Governor. It has produced a Congressional delegation during the past decade which was evenly split between Democrats and Republicans for three Congresses, with each party enjoying a five to three advantage once since 1971.

6. Plaintiff and Chairman Stumpf would have you reject this bipartisan approach, twice exercised in favor of their so-called "Four-Four" plans. Proponents of the so-called "Four-Four" plans purport they will create a situation which is somehow more representative than basic framework which has been in existence for the past twenty years. I disagree.

7. Rather, I would suggest that the present Congressional districts, in place for the past two decades with only minor changes made to accomodate population shifts, represent *real* communities of interest. This, along with the fact that the present slate of districts is, in an overall sense competitive, presents a compelling argument for following present district lines as closely as possible.

8. I have been involved in Minnesota politics for 20 years as an elected official; as a State Legislator from 1962 to 1970, and as a Member of the United States Congress representing Minnesota's Third Congressional District from 1972 to present. In my judgment, both Plaintiff's plan and Chairman Stumpf's plan have but one goal — to insure a five to three split favoring Democrats in the Minnesota Congressional Delegation.

9. To begin, Plaintiff's plan would place two incumbent Republicans, Congressman Tom Hagedorn, of Martin County and Congressman Vin Weber, of Murray County, in the same district, which is called District Two. Chairman Stumpf's plan does the same, placing both in the district labelled District Six. This is a clear attempt at gerrymandering away the marginal, or "swing" district now represented by Congressman Weber.

10. The present Seventh Congressional District, the State's other "swing" district which is represented by Republican Congressman Arlan Stangeland, would also have its political nature substantially modified by both plans. Plaintiff's plan would add the highly Democratic Itasca County to the Seventh District, while at the same time removing the solidly Republican counties of Stevens and Pope. Chairman Stumpf's plan would go one step farther, adding the highly Democratic Counties of Koochiching *and* Itasca, while dropping the Republican counties of Douglas and Pope.

11. When the Court set out redistricting criteria its first priority was minimum population deviation. The modified "McCarron Plan" and the "Delegation Plan" submitted by the Republicans of the Congressional Delegation are clearly superior to Plaintiff's and Chairman Stumpf's plans in this regard. I would hope, all other things being equal, that the Court would select one of those two, superior plans. All other things, however, are not equal.

12. Plaintiff's and Chairman Stumpf's plans radically alter present "communities of interest." Each concocts districts which contain very suburban areas with very rural areas. In Chairman Stumpf's District Three, the City of Crystal, in Hennepin County, has no more in common with Scandia Township than does Deephaven, in Hennepin County, with the town of Elko, in Dakota County, in Plaintiff's District Three.

13. Plaintiff would ask us to believe that there is some community of interest between Stillwater and Watertown. Chairman Stumpf asks us to believe that Bayport, on the St. Croix River, will be more admirably served in a district which includes Maple Plain, than it will with Newport, as it is at present. I would argue they do not.

14. The "communities of interest" supposedly served by the Plaintiff's Chairman's Plans disguises the real question: why change the political landscape so dramatically? The answer is for pure partisan gain. As an Independent-Republican Party member and office holder, I am more than willing to see my Party compete in a setting where Republicans have had some successes and some failures. Plaintiff's and Chairman Stumpf's plans do away with that competitive framework and set in its place five districts which are dramatically in favor of Democrats. The modified McCarron Plan and the Delegation Plan improve on the competitive configuration through minor changes to account for population changes, and protect it. I urge the Court to adopt either the modified McCarron Plan or the Delegation Plan.

Further affiant saith not.

WILLIAM FRENZEL
William Frenzel

*District of Columbia*
Subscribed and sworn before
me this 8th day of February, 1982.

MARY CURTIS
Mary Curtis Bowman
Notary Public

My Commission Expires: May 30, 1984

## APPENDIX

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

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**CIVIL 4-81-414**

---

SHARON LACOMB, JAMES A. WOOLEY, and PHILLIP R. KRASS, individually and on behalf of all Citizens and Voters of the State of Minnesota similarly situated,

*Plaintiffs,*

v.

JOAN GROWE, Secretary of State of Minnesota; VERNON T. HOPPE, Hennepin County Auditor; CHARLES R. LEFEBVRE, Anoka County Auditor; CARL D. ONISHCHUK, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

*Defendants,*

LAVERNE ORWOLL, *et al.*,

*Intervenors.*

---

**ORDER**

**TO: ALL COUNSEL AND AMICUS CURIAE**

This matter is before the Court on the motion by Intervenors Laverne Orwoll, et al., for an evidentiary hearing for the purpose of receiving evidence in support of and in opposition to any proposed plans for congressional redistricting, and for submission to the parties for review and comment any plan for congressional redistricting in advance of the formal adoption of such plan.

IT IS HEREBY ORDERED that the motion is denied.

FOR THE THREE JUDGE COURT

---

Judge Harry H. MacLaughlin
United States District Court

DATED: February 18, 1982

**Journal Of The House**

Thursday, January 21, 1982

CALENDAR

H.F. No. 1478, A bill for an act relating to congressional districts; apportioning congressional districts; amending Minnesota Statutes 1980, Sections 2.741; 2.751; 2.761; 2.771; 2.781; 2.791; 2.801; and 2.811.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 104 yeas and 24 nays as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Aasness | Ainley | Anderson, B. | Anderson, I | Battaglia |
| Begich | Hanson | Lemen | Osthoff | Sherwood |
| Berkelman | Harens | Levi | Otis | Sieben, M. |
| Blatz | Hauge | Long | Peterson, B. | Simoneau |
| Brinkman | Haukoos | Ludeman | Peterson, D. | Stadum |
| Byrne | Heinitz | Marsh | Piepho | Staten |
| Carlson, D. | Himle | McCarron | Pogemiller | Stowell |
| Clark, J. | Hokanson | McDonald | Reding | Stumpf |
| Dahlvang | Hokr | McEachern | Rees | Swanson |
| Dempsey | Jacobs | Mehrkens | Reif | Tomlinson |
| Den Ouden | Jennings | Minne | Rice | Valan |
| Drew | Johnson, C. | Munger | Rodriguez, C. | Valento |
| Eken | Johnson, D. | Murphy | Rodriguez, F. | Voss |
| Elioff | Jude | Nelson, K. | Rose | Weaver |
| Evans | Kaley | Niehaus | Rothenberg | Welch |
| Ewald | Kalis | Norton | Samuelson | Welker |
| Fjoslien | Knickerbocker | Nysether | Sarna | Wenzel |
| Forsythe | Kostohryz | O'Connor | Schafer | Wigley |
| Gruenes | Kvam | Ogren | Schreiber | Zubay |
| Gustafson | Laidig | Olsen | Searles | Spkr. Sieben, H. |
| Halberg | Lehto | Onnen | Sherman | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Anderson, G. | Ellingson | Kahn | Redalen | Vanasek |
| Brandl | Erickson | Kelly | Schoenfeld | Vellenga |
| Carlson, L. | Frerichs | Mann | Shea | Wieser |
| Clark, K. | Greenfield | Metzen | Skoglund | Wynia |
| Clawson | Heap | Novak | Sviggum | |

The bill was passed and its title agreed to.

# Motion

# 81-1770

Supreme Court, U.S.
FILED
MAR 24 1982
ALEXANDER L. STEVAS
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
FEBRUARY TERM 1982

Sharon LaComb, James A. Woolley, and Phillip R. Krass, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,

Plaintiffs,

vs.

Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor, Charles R. Lefebvre, Anoka County Auditor; Carl D. Onishchuk, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Defendants,

Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnobrich, Henry Berghuis, Dorothy Nelson,

Intervenors,

Seventy-Second Minnesota State Senate,

Amicus Curiae.

4-81-Civ-414

On Appeal from the United States
District Court for the Northern District
of Minnesota, Fourth Division

MOTION TO EXPEDITE CONSIDERATION

Appellants, the above-named Intervenors, respectfully move the Supreme Court of the United States to expedite consideration of the cause and, to that end, to require a response to the attached Jurisdictional Statement to be submitted by April 5, 1982.

In support of this motion Appellants state as follows:

1. On March 11, a three-judge panel of the U.S. District Court for the District of Minnesota issued a Memorandum Opinion and Order adopting a plan of redistricting for the Congressional districts of the State of Minnesota.

2. Appellants filed their Notice of Appeal on March 22, 1982.

3. The initial date for candidates for Congress to file nominating petitions is July 6, 1982.

4. Appellants have filed simultaneously with this motion their Jurisdictional Statement pursuant to Supreme Court Rule 15.

5. A compelling reason for this Court to entertain this case is the necessity of securing a definitive resolution of the constitutional issues before the upcoming primary elections. Although the resolution of this reapportionment issue is of great import, affecting all of the citizens of Minnesota, the legal question is not complex, nor burdened with great factual detail.

Wherefore, appellants pray that the Court set the following expedited schedule for review of this appeal:

1. Advance the time for Appellees Sharon LaComb, James A. Wooley and Philip R. Krass to reply to this Motion and to file their Motion to Dismiss or Affirm pursuant to Supreme Court Rule 16 to April 5, 1982.

2. Set a ruling on this Motion and on the issue of probable jurisdiction on or before April 9, 1982.

3. Require the simultaneous filing of opening briefs on the merits pursuant to Supreme Court Rule 35 by appellants, appellees and any other parties or amici curiae on or before April 16, 1982.

4. Require the filing of reply briefs on or before April 23, 1982.

5. Set oral argument for April 23, 1982.

Respectfully submitted,

Jerris Leonard

Jerris Leonard
Counsel of Record for Appellants

Dated: March 24, 1982

IN THE
SUPREME COURT OF THE UNITED STATES
FEBRUARY TERM 1982

| | |
|---|---|
| Sharon LaComb, James A. Woolley, and Phillip R. Krass, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,<br><br>Plaintiffs,<br><br>vs.<br><br>Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor; Charles R. Lefebvre, Anoka County Auditor; Carl D. Onishchuk, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,<br><br>Defendants,<br><br>Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnobrich, Henry Berghuis, Dorothy Nelson,<br><br>Intervenors,<br><br>Seventy-Second Minnesota State Senate,<br><br>Amicus Curiae. | 4-81-Civ-414 |

On Appeal from the United States
District Court for the Northern District
of Minnesota, Fourth Division

CERTIFICATE OF SERVICE

I, Jerris Leonard, counsel of record for appellants in the above-captioned appeal, hereby certify that pursuant to Supreme Court Rules 42.3 and 28.5(b), I caused a copy of the foregoing Motion for Expedited Review to be served upon the attorneys named on the attached Service List on March 24, 1982.

Jerris Leonard
Counsel of Record for Appellants

SERVICE LIST

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James Bares
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James C. Backstrom
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Hasting, Minnesota 55033

Peter S. Watson
480 State Office Building
St. Paul, Minnesota 55155

# Opposition

1

81-1770

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1981

No. _____

RECEIVED
MAR 25 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

---

Sharon LaComb, James A. Woolley, and Phillip R. Krass, individually and on behalf of all citizens and voters of the State of Minnesota similary situated,

Appellee,

-vs-

Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor; Charles R. Lefebvre, Anoka County Auditor; Carl D. Onishchuk, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Appellees,

Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnorbrich, Henry Berghuis, Dorothy Nelson,

Appellants,

Seventy-Second Minnesota State Senate,

Amicus Curiae.

---

RESPONSE TO APPELLANTS' MOTION
FOR EXPEDITED CONSIDERATION OF APPEAL

---

Appellee Secretary of State Joan Growe respectfully submits her response to Appellants' Motion to Expedite Consideration of this matter.

10

Appellee agrees that this case should proceed on an expedited schedule. This will help ensure that orderly congressional elections can take place in Minnesota this fall utilizing boundaries that accord with law. However, Appellee strongly disagrees with the schedule proposed to the Court by Appellants.

The Notice of Appeal in this matter was served on Monday of this week, March 22, 1982. Today, we were informed by Appellants' counsel that she was about to file the Jurisdictional Statement and Motion to Expedite Consideration. Under this Court's rules, Appellee should be entitled to thirty days in which to prepare and serve a Motion to Affirm or Dismiss. However, assuming Appellants' Jurisdictional Statement arrives by sometime on Thursday, March 25, 1982, Appellee would only have eleven days to research, write, print and serve her responsive motion in Washington, D.C., in addition to trying to locate possible amici.

Appellee notes that reapportionment cases frequently are summarily decided once the jurisdictional pleadings have been filed (see, e.g., Ryan v. Otto, Sup. Ct. No. 81-1068, filed Jan. 12, 1982). The present case is certainly a candidate for summary disposition. The three-judge panel's congressional plan here has an almost zero population deviation among the eight districts (see the attached statistical summary), recognizes the virtually equal division of the state's population between metropolitan and rural residents by creating four metropolitan districts and four rural districts, preserves large parts of most of the old districts where possible, and creates districts which most political observers agree results in both major political parties having a substantial likelihood of electing an equal number of congressmen (4-4) -- a

balance which is not inconsistent with recent voting patterns in Minnesota. Thus, the appeal presents no substantial federal questions and jurisdiction should not be noted.

As a result of the extreme importance of jurisdictional pleadings in such cases, Appellee respectfully suggests that she be given to April 16, 1982 to serve her Motion to Dismiss or Affirm. Furthermore, she requests that if jurisdiction is noted, she be given at least thirty (30) days to respond to the Appellants' brief. She strongly opposes filing simultaneous briefs.

Appellee notes that counsel for Appellants, Jerris Leonard & Associates, P.C., of Washington, D.C., is handling a number of reapportionment cases around the country during the last two years (see, e.g., Ryan v. Otto referred to above). They have resources and experience unmatched by counsel for Appellee Growe. Simply put, we are not in a position to graciously concede away time needed to research and prepare briefs. While we want the case accelerated, we cannot agree to do so at the expense of our client. Unlike Mr. Leonard's staff, this will be the only reapportionment case we are likely to work on in a lifetime.

Dated: March 24, 1982

Respectfully submitted,

WARREN SPANNAUS
Attorney General
State of Minnesota

Richard B. Allyn

RICHARD B. ALLYN
Chief Deputy
Attorney General

102 State Capitol
St. Paul, Minnesota 55155
Telephone: (612) 296-2351

COUNSEL FOR APPELLEE
SECRETARY OF STATE JOAN GROWE

ATTACHMENT: Statistical Summary

CONGRESSIONAL SUMMARY CIV152 3/11/82

## SUMMARY STATISTICS

| | |
|---|---|
| OPTIMAL DISTRICT POPULATION IS | 509,496 |
| LARGEST DISTRICT POPULATION IS | 509,506 |
| SMALLEST DISTRICT POPULATION IS | 509,460 |
| POPULATION RANGE IS | 46 |
| LARGEST DEVIATION IS | 10 |
| SMALLEST DEVIATION IS | -36 |
| DEVIATION RANGE IS | 46 |
| MEAN DEVIATION IS | 9 |
| STANDARD DEVIATION IS | 14.697 |
| LARGEST PERCENT DEVIATION IS | 0.000 |
| SMALLEST PERCENT DEVIATION IS | -0.010 |
| PERCENT DEVIATION RANGE IS | 0.010 |
| MEAN PERCENT DEVIATION IS | 0.001 |

CONGRESSIONAL SUMMARY CIV152 3/11/82

| DISTRICT | TOTAL POPULATION | DEVIATION | PERCENT DEVIATION |
|---|---|---|---|
| 5 | 509,506 | 10.00 | 0.00 |
| 8 | 509,506 | 10.00 | 0.00 |
| 6 | 509,505 | 9.00 | 0.00 |
| 2 | 509,500 | 4.00 | 0.00 |
| 3 | 509,499 | 3.00 | 0.00 |
| 4 | 509,499 | 3.00 | 0.00 |
| 7 | 509,495 | -1.00 | -0.00 |
| 1 | 509,460 | -36.00 | -0.01 |
| TOTAL | 4,075,970 | | |

Sharon LaComb, et al. v. Joan Growe, et al

U.S. Supreme Court No. _____
(Minn. U.S.D.C. File No. 4-81 Civ. 414)

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

Richard B. Allyn, being duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on the 24th day of March, 1982, he served upon all counsel required to be served Appellee Joan Growe's RESPONSE TO APPELLANTS' MOTION FOR EXPEDITED CONSIDERATION OF APPEAL by depositing in the United States mail at said City of St. Paul, a true and correct copy of said document, properly enveloped, with postage prepaid, and addressed to:

Alan W. Weinblatt
Leonard & Weinblatt
Suite 200
170 East 7th Place
St. Paul, MN 55101

Mr. James C. Backstrom
Ass't Dakota County Atty.
Dakota County Gov't Center
1560 Highway 55
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Mr. James Bares
Ass't Henn. Co. Atty.
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Minneapolis, MN 55487

Richard Kyle, Jr.
Briggs & Morgan
2100-W First Nat'l Bank Building
St. Paul, MN 55101

Peter S. Wattson
Senate Counsel
480 State Office Building
St. Paul, MN 55155

Richard B. Allyn

Subscribed and sworn to before me,
this 24th day of March, 1982.

Debra M. Lanette
NOTARY PUBLIC

DEBRA M. LANETTE
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires August 15, 1983

# Opposition

# 2

RECEIVED
MAR 29 1982
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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1981

No. 81-1770

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Sharon LaComb and James A. Woolley, individually and on behalf of all citizens and coters of the State of Minnesota similarly situated,

Appellees,

-vs-

Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor, Carl D. Onischuk, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Appellees,

Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnorbrich, Henry Berghuis, Dorothy Nelson,

Appellants,

Seventy-Second Minnesota State Sentate,

Amicus Curiae.

---

RESPONSE OF PLAINTIFFS-APPELLEES TO APPELLANTS' MOTION TO EXPEDITE

---

Plaintiff-Appellees were served with appellants' Motion to Expedite Consideration on March 25, 1982. For the following reasons, they respectfully oppose said Motion:

1. There are no compelling constitutional issues presented by this appeal and no substantial federal question.

2. If this Court were to grant appellants' Motion on March 29, 1982, appellees would have but three or four working days to reply to appellants' Jurisdictional Statement.

3. Appellants are represented by two large, experienced law firms, while these appellees are represented by a three person firm.

4. Appellants' counsel has demonstrated a lack of professional courtesy in that they:

a. Did not advise plaintiff-appellees of their intent to appeal to this Court.

10

b. Did not advise plaintiff-appellees of their intent to file a jurisdictional statement.

c. Did not advise plaintiff-appellees of the filing of the instant Motion (notice came orally from the Clerk of The Supreme Court, prior to receipt of the Motion).

d. Did not confer with plaintiff-appellees' counsel regarding the feasibility or reasonableness of the proposed schedule.

5. The undersigned cannot reasonably research, prepare, proofread, cause to be printed, serve and file a response to the Jurisdictional Statement by April 5, 1982.

6. The Jurisdictional Statement and appellees' response thereto may be the only opportunity that the parties have to present their case to this Court. Effective representation requires that counsel have a fair and realistic opportunity to present their arguments.

7. Supreme Court Rule 16(1) allows thirty days for an appellee to file a motion to affirm under Rule 16. Appellants have not shown good cause (or any cause) why that period should be reduced by almost two-thirds.

8. The primary elections for Congress in Minnesota referred to in paragraph 5 of the instant Motion is not scheduled to be held until September 14, 1982. M.S.A. §202A.21.

9. Filing for Congressional office in Minnesota occurs between July 6 and July 20, 1982. M.S.A. §202A.22, subd. 1.

10. No reason has been given for appellants' request for simultaneous briefs and nothing in Rule 35, Supreme Court Rules, forms the basis for such a request. These appellees most strenuously object to the attempted denial of their right to respond to appellants' brief. Further, no cause is shown for reducing the thirty days allowed by Rule 35.2 for appellees' brief down to zero.

11. Neither the plaintiffs nor the defendants nor the Seventy-Second Minnesota State Senate support the instant Motion.

The undersigned has not previously appeared before this Court, but considers it an honor to do so. At the same time, effective representation of plaintiff-appellees requires that the appellate process not be short circuited by condensing it to such a degree that renders it meaningless.*/ If the case is to be resolved without plenary consideration, the parties must be given a full and fair opportunity to present their legal arguments. This case is of far too great importance to the plaintiff-appellees and their fellow citizens of Minnesota to do otherwise.

Respectfully submitted,

LEONARD & WEINBLATT

By Alan W. Weinblatt

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Attorney for Plaintiff-Appellees

---

*/ Too much expediting can result in sloppy work. See e.g. the caption of the instant motion erroneously creating a "Northern" District of Minnesota.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1981

No._____

---

Sharon LaComb and James A. Woolley, individually and on behalf of all citizens and voters of the State of Minnesota similarly situated,

Appellees,

-vs-

Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor; Carl D. Onischuk, Dakota County Auditor, on behalf of themselves and all County Auditors of the State of Minnesota,

Appellees,

Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnorbrich, Henry Berghuis, Dorothy Nelson,

Appellants,

Seventy-Second Minnesota State Senate,

Amicus Curiae.

---

On Appeal from the United States
District Court for the District of Minnesota,
Fourth Division

CERTIFICATE OF SERVICE

I, Alan W. Weinblatt, counsel of record for Plaintiffs-Appellees in the above captioned appeal, hereby certify that pursuant to Supreme Court Rules 42.3 and 28.5(b), I caused a copy of the foregoing Response of Plaintiffs-Appellees to Appellants' Motion to Expedite to be served upon the attorneys named on the attached Service List on March 26, 1982.

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ALAN W. WEINBLATT
Counsel of Record for Appellees

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# Opposition

# 3

Supreme Court, U.S.
FILED
MAR 26 1982
ALEXANDER L. STEVAS
CLERK

No. 81-1770

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1981

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,
Appellants-Intervenors,

vs.

SHARON LACOMB, JAMES A. WOOLLEY, and PHILLIP R. KRASS, INDIVIDUALLY AND ON BEHALF OF ALL CITIZENS AND VOTERS OF THE STATE OF MINNESOTA SIMILARLY SITUATED,
Appellees,

JOAN GROWE, SECRETARY OF STATE OF MINNESOTA; VERNON T. HOPPE, HENNEPIN COUNTY AUDITOR; CHARLES R. LEFEBVRE, ANOKA COUNTY AUDITOR; CARL D. ONISHCHUK, DAKOTA COUNTY AUDITOR, ON BEHALF OF THEMSELVES AND ALL COUNTY AUDITORS OF THE STATE OF MINNESOTA,
Appellees,

SEVENTY-SECOND MINNESOTA STATE SENATE,
Amicus Curiae.

---

On Appeal from the United States District Court

for the District of Minnesota

---

# MOTION FOR LEAVE TO FILE MEMORANDUM OF AMICUS CURIAE

AND

# MEMORANDUM IN OPPOSITION TO

# MOTION TO EXPEDITE

---

PETER S. WATTSON
SENATE COUNSEL
480 State Office Building
Saint Paul, Minnesota 55105
(612) 296-3812
Attorney for Amicus Curiae
Seventy-Second
Minnesota State Senate

MOTION

The Seventy-Second Minnesota State Senate respectfully moves this Court pursuant to Rule 36, Rules of the Supreme Court of the United States, for leave to file a memorandum in opposition to the motion of appellants Laverne Orwoll, et al., to expedite consideration of their appeal in this action.

INTEREST OF AMICUS CURIAE

The Seventy-Second Minnesota State Senate (Senate), along with the House of Representatives and subject to approval or veto by the Governor, is vested by Article IV, Section 3, of the Minnesota Constitution with "the power to prescribe the bounds of congressional . . . districts." It exercised that power on January 27, 1982 by passing House File No. 1478, as amended by the Senate, which prescribed the bounds of new congressional districts. The House of Representatives, on January 28, 1982, refused to concur in the Senate amendments and adopted a motion that the Speaker of the House appoint a conference committee.

On January 29, 1982, the Senate moved to intervene in this action in the United States district court for the district of Minnesota pursuant to Rule 24 of the Federal Rules of Civil Procedure. The Senate argued that it was entitled to intervene as a matter of right under paragraph (a), clause (2), of Rule 24, or in the alternative, that the Senate should be permitted to intervene under paragraph (b), clause (2), of Rule 24.

Simultaneously with its motion to intervene, the Senate filed with the Court a copy of House File No. 1478, as amended by the Senate, and supporting maps and population tables setting forth the congressional districts contained in House File No. 1478, as amended.

On February 9, 1982, the three-judge court entered an order denying the Senate's motion to intervene, but stating that the Court would consider the Senate's congressional redistricting plan and would permit the Senate to appear as amicus curiae throughout the proceedings.

On March 10, 1982, the Senate filed a notice of appeal, pursuant to 28 U.S.C. Sec. 1253, to the United States Supreme

Court from the Court's order of February 9, 1982 denying the motion to intervene.

On March 11, 1982, the three-judge court issued its Memorandum Opinion, Order, and Plan of Congressional Districts. The Court's plan recognizes the two main communities of interest into which the State of Minnesota is divided: the seven-county Twin Cities metropolitan area and the 80 counties of outstate Minnesota, consistent with the legislative findings in section 1 of House File No. 1478, as amended by the Senate.

On March 19, 1982, both houses of the legislature adjourned sine die without enacting a congressional redistricting bill.

On March 25, 1982, the Seventy-Second Minnesota State Senate (Senate) received service by mail of appellants' Jurisdictional Statement and Motion to Expedite Consideration.

ARGUMENT

The Seventy-Second Minnesota State Senate opposes the motion to expedite consideration insofar as it would shorten the time allowed by the Rules of the Supreme Court for preparation and filing of motions to dismiss or affirm, either by appellees Sharon LaComb, et al., or by appellees Joan Growe, et al., or both, or by the Seventy-Second Minnesota State Senate as appellant with respect to the Court's order denying the Senate's motion to intervene and appellee-intervenor with respect to the Court's Order and Plan of Congressional Districts. The deadline for response to the jurisdictional statement should be April 24, 1982.

The Seventy-Second Minnesota State Senate supports the congressional redistricting plan adopted by the three-judge court March 11, 1982. That plan provides for eight congressional districts, with a maximum deviation from ideal of 36 persons, or .00 percent, and an absolute range of 46 persons, or .01 percent. The plan has no adverse impact on minority populations, respects the boundaries of political subdivisions, recognizes the seven-county Twin City metropolitan area and the 80 counties of outstate Minnesota as the state's two major communities of interest, preserves existing congressional

districts except as necessary to provide equal representation to residents of the Twin Cities metropolitan area, and provides for congressional districts of contiguous territory compact in shape. The plan not only meets all the constitutional requirements for a congressional plan, it also serves to protect and promote many of the state interests this Court has found worthy of respect when embodied in plans for legislative reapportionment.

This appeal should not require plenary consideration. This appeal can be fully and fairly disposed of by this Court on the basis of the jurisdictional statement and responsive motions to dismiss or affirm, if appellees are given adequate time to properly prepare their motions to dismiss or affirm. The time for preparation and filing of those motions should not be shortened.

Counsel for appellants, Jerris Leonard, has already presented at least one congressional redistricting appeal to this Court. Ryan v. Otto, No. 81-1068, and McCoy v. Otto, No. 81-1077, (In re Illinois Congressional Districts Reapportionment Cases, N.D. Ill., December 3, 1981). They may be here again later with cases from other states. Counsel for the Seventy-Second Minnesota State Senate, on the other hand, will, by the nature of things, be here on appeal only on the congressional redistricting case from Minnesota. The Seventy-Second Minnesota State Senate desires to have the full amount of time allowed by the Rules of the Supreme Court to prepare a brief in support of a motion to dismiss or affirm made by appellees Sharon LaComb, et al., or by appellees Joan Growe, et al., or both. If neither appellee plans to move to dismiss or affirm, the Seventy-Second Minnesota State Senate desires to have the full amount of time allowed by the Rules of the Supreme Court to perfect its appeal from the order below denying the Senate's motion to intervene, so that the Senate may then file its own motion to dismiss or affirm.

If the full amount of time is allowed for preparation and filing of motions to dismiss or affirm, and this Court decides

to set the appeal for briefing and oral argument, the Seventy-Second Minnesota State Senate, either as amicus curiae or as appellant-movant for intervention and appellee, will not object to shortening the time for briefing and oral argument.

Respectfully submitted,

PETER S. WATTSON
SENATE COUNSEL

480 State Office Building
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Attorney for Amicus Curiae
Seventy-Second
Minnesota State Senate

March 25, 1982

Attachments
Map of Congressional districts by the Court 4-81 Civil 414
Court Redistricting 4-81 Civil 414 Report Summary

MAP OF CONGRESSIONAL DISTRICTS BY THE COURT 4-81 CIVIL 414

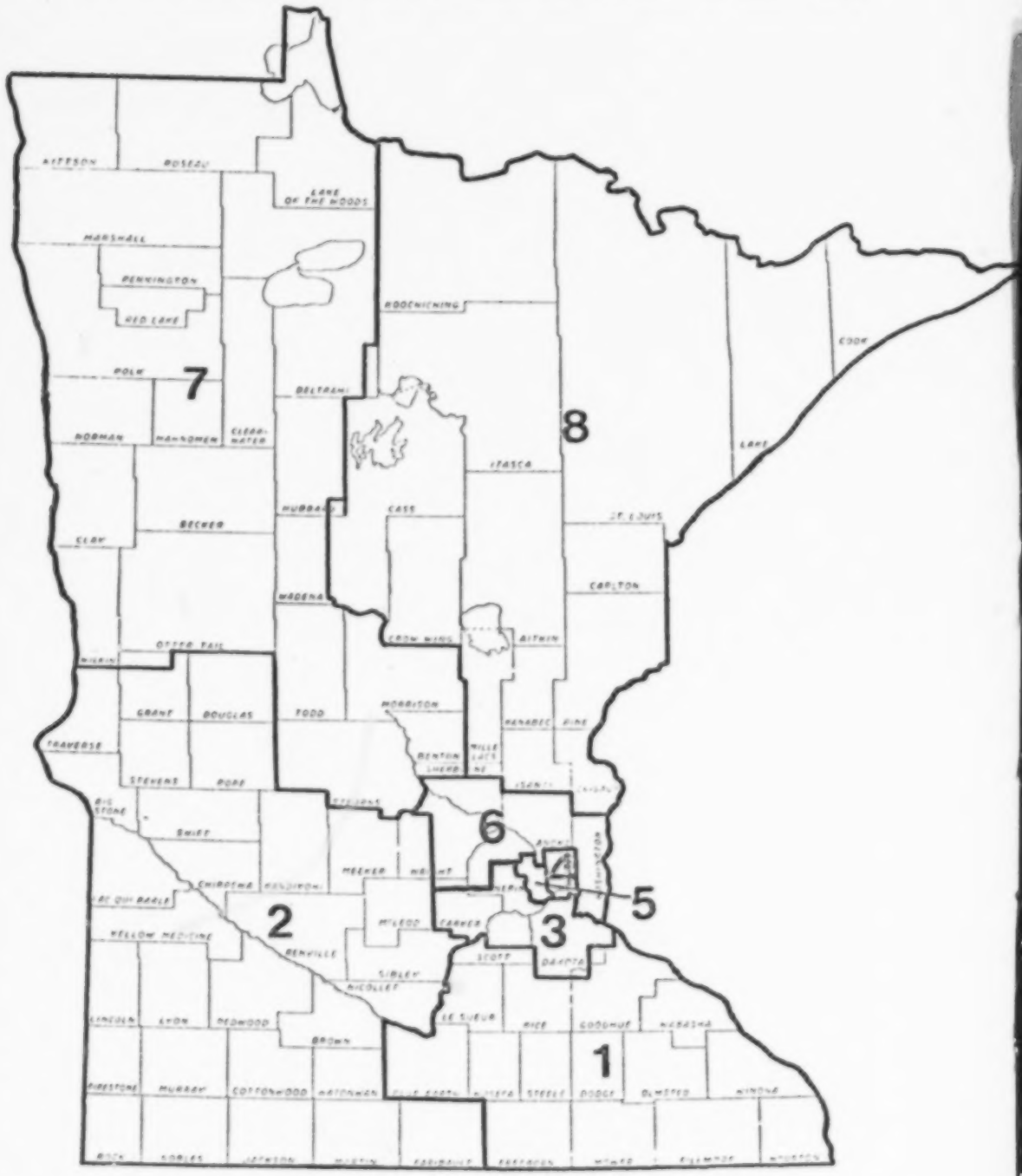


FIGURE 1

COURT REDISTRICTING 4-81-CIVIL ~~152~~
REPORT SUMMARY

CONGRESSIONAL DISTRICT PLAN NUMBER OF DISTRICTS - 8

| DISTRICT NAME | TOTAL POPULATION | DEVIATION | PERCENT DEVIATION |
|---|---|---|---|
| 1 | 509468 | -36 | -0.01 |
| 2 | 509500 | 4 | 0.00 |
| 3 | 509499 | 3 | 0.00 |
| 4 | 509499 | 3 | 0.00 |
| 5 | 509506 | 10 | 0.00 |
| 6 | 509505 | 9 | 0.00 |
| 7 | 509495 | -1 | -0.00 |
| 8 | 509506 | 10 | 0.00 |
| STATE TOTAL | 4073970 | | |

MEAN DEVIATION IS 9
MEAN PERCENT DEVIATION IS 0.00

# Appellant's Reply Brief

2

RECEIVED
MAR 30 1982
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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES
February Term, 1982

| | |
|---|---|
| Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schrobrick, Henry Berghuis, Dorothy Nelson, Appellants, v. Sharon LaComb, James A. Wooley, Philip R. Krass, Appellees, Joan Growe, Secretary of State of Minnesota; Vernon T. Hoppe, Hennepin County Auditor; Charles R. Lefebrue, Anoka County Auditor; Carl D. Onishchuk, Dakota County Auditor, Appellees. | No. 81-1770 |

APPELLANTS' REPLY TO APPELLEE JOAN GROWE'S RESPONSE TO APPELLANTS' MOTION FOR EXPEDITED CONSIDERATION

Come now the Appellants and in reply to Appellee Joan Growe's Response to the Motion for Expedited Consideration, respectfully submit the following:

1. This reply is necessitated by factual inaccuracies in the Attorney General's Response. It addresses briefly the essential facts.

2. The Appellee states that the Court's plan achieves an almost zero population deviation. The Appellee fails to note that the plans submitted by Appellants also attained virtual mathematical equality.

3. The Appellee supports the Courts' plan because it "recognizes the equal division of the states' population between metropolitan and rural residents by creating four metropolitan districts and four rural districts." The creativity exhibited by the court is precisely what runs afoul of the Constitution.

10

4. The Appellee asserts that the Courts' plan "preserves most of the old districts." The Courts' plan not only completely redraws the lines on the map but more fundamentally, reshapes State policy which underpins those lines.

5. The materiality of such evidence aside, nothing in the record substantiates the Appellee's political diagnosis that under the Court's plan both major parties will have a substantial likelihood of electing an equal number of Congressmen.

6. Counsel for the Appellee states that he lacks the resources and experience of Appellants and therefore deserves additional time. First, the Attorney General has more attorneys on his staff than the combined offices of Appellants' Counsel. Secondly, the Secretary of State is a nominal defendant -- by reason of her administration of the election proceedings she was the government official to be enjoined. Consequently, she did not submit a redistricting plan to the lower court. Her interest in the suit below and in this appeal is properly restricted to her official responsibility to conduct filings, primaries, and elections in accordance with the Court's final order. This does not include advocating a partisan position on the merits of the Court's plan.

Respectfully submitted,

Jerris Leonard, Counsel of
Record for the Appellants

Of Counsel:

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# Amicus Brief

Office - Supreme Court, U.S.
FILED
APR 26 1982
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CLERK

No. 81-1770

IN THE

# Supreme Court of the United States

OCTOBER TERM 1981

LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Appellees,*

JOAN GROWE, Secretary of State of Minnesota,

*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

On Appeal from the United States District Court
for the District of Minnesota

# BRIEF OF AMICUS CURIAE

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1982—Northwest Brief Printing Co., 3010 2nd St. No., Minneapolis 55411—588-7506

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Journal of the House, Seventy-Second Legislature, Sixty-Sixth Day, (January 28, 1982) ..... 12

IN THE

# Supreme Court of the United States

OCTOBER TERM 1981

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No. 81-1770

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LAVERNE ORWOLL, WILMA GRAMS, DAVID A. BRODEN, DONNA DENKINGER, CARROLYN ANDERSON, JOHN SCHNOBRICH, HENRY BERGHUIS, DOROTHY NELSON,

*Appellants,*

vs.

SHARON LaCOMB and JAMES A. WOOLLEY,

*Appellees,*

JOAN GROWE, Secretary of State of Minnesota,

*Appellee,*

SEVENTY-SECOND MINNESOTA STATE SENATE,

*Amicus Curiae.*

---

On Appeal from the United States District Court
for the District of Minnesota

---

# BRIEF OF AMICUS CURIAE

---

## INTRODUCTION

The Seventy-Second Minnesota State Senate submits this Brief of *Amicus Curiae* in support of the motions of appellees Sharon LaComb, et al. and Minnesota Secretary of State Joan Growe to affirm the judgment of the district court, pursuant to the order of this Court entered April 5, 1982 whereby "The motion of Minnesota State Senate for leave to file a brief, as *amicus curiae,* is granted."

The interest of the Seventy-Second Minnesota State Senate as *amicus curiae* was set forth in the Motion for Leave to File Memorandum of Amicus Curiae and Memorandum in Opposition to Motion to Expedite dated March 25, 1982 and will not be repeated here, except to reiterate that the redistricting plan adopted by the district court is substantially similar to the plan passed by the Seventy-Second Minnesota State Senate on January 27, 1982 on a vote of 40 to 23. *See* Journal of the Senate, Seventy-Second Legislature, Sixty-Fourth Day, 3337-40 (January 26, 1982) App. A-4-9, *as amended, Id.*, Sixty-Fifth Day, 3356-57, 3360 (January 27, 1982) App. A-9-10, 16-17.

## SUMMARY OF ARGUMENT

The Judgment of the District Court Should Be Affirmed Because It is Manifest that the Questions Presented by the Appeal Are So Unsubstantial As Not To Need Further Argument.

A. Appellants do not contend that the districts created by the Court's plan violate any constitutional criteria.

B. Appellants do not contend that the districts created by the Court's plan violate the criteria adopted by the Court below to govern congressional redistricting plans.

C. Appellants do not argue that the district court erred in adopting those criteria as the exclusive criteria on which congressional redistricting plans should be judged.

D. Question I raised by appellants, i.e., whether the Court below abused its remedial equitable discretion by adopting a congressional redistricting plan that adhered to prior district lines less closely than did other plans present-

ed to the Court, is so unsubstantial as not to need further argument.

1. There is no compelling reason to base a 1982 congressional redistricting plan upon a map that was drawn up using the 1970 census figures.

2. The Minnesota Legislature has not expressed a policy with regard to 1982 congressional redistricting.

3. Current state policy recognizes the metropolitan area as a political entity with unique governmental concerns.

4. The Court below adhered to 1971 congressional district boundaries in most districts.

5. The Court stated good and sufficient reasons for not adhering more closely to prior congressional district lines.

E. Question II raised by appellants, i.e., whether the preference of the Court below for recognition of the seven-county Twin Cities metropolitan area as a community of interest justified the Court's adoption of a congressional redistricting plan that adhered to prior district lines less closely than other plans presented to the Court, is so unsubstantial as not to need further argument.

1. Departing from the 1971 congressional district lines enabled the Court to provide equal representation to residents of the metropolitan area.

2. Departing from the 1971 congressional district lines enabled the Court to follow other compelling state policies previously adopted by the Court as criteria to govern 1982 congressional redistricting plans.

a. It allowed the Court to draw districts that were more compact.

b. It allowed the Court to respect the integrity of the metropolitan area as a political subdivision.

c. It allowed the Court to recognize and preserve the metropolitan area as an urban community of interest separate and distinct from the rural communities of outstate Minnesota.

3. The plan adopted by the Court achieves the goal of population equality to a greater extent than plans that more closely adhered to 1971 congressional district lines.

## ARGUMENT

### The Judgment of the District Court Should Be Affirmed Because It is Manifest that the Questions Presented by the Appeal Are So Unsubstantial As Not To Need Further Argument.

#### A. Appellants do not contend that the districts created by the Court's plan violate any constitutional criteria.

The redistricting plan adopted by the Court provides for eight congressional districts with an overall range of 46 persons or .01 percent and a mean deviation of 9 persons or .00 percent. *See* Jurisdictional Statement at App. 52a. Appellants do not challenge the plan on equal-population grounds. *See Wesberry v. Sanders,* 376 U.S. 1 (1964); *Kirkpatrick v. Preisler,* 394 U.S. 526 (1969); *Wells v. Rockefeller,* 394 U.S. 542 (1969); *White v. Weiser,* 412 U.S. 783 (1973); *Chapman v. Meier,* 420 U.S. 1, 23 (1975).

Appellants do not challenge the plan adopted by the

Court on the ground that it discriminates against a racial minority. *See City of Mobile v. Bolden*, 446 U.S. 55 (1980); *White v. Regester*, 412 U.S. 755 (1973).

### B. Appellants do not contend that the districts created by the Court's plan violate the criteria adopted by the Court below to govern congressional redistricting plans.

On December 29, 1981, the three-judge court, after considering criteria suggested and commented on by the parties, issued an order establishing the criteria that would govern congressional redistricting plans. The criteria were:

> 1. There shall be eight (8) districts. The population of the districts shall be as nearly equal as possible. The maximum permissible deviation from population equality will be plus or minus one-quarter of one percent (.25%) or 1,274 people.
>
> 2. The districts shall be single member, compact and contiguous.
>
> 3. The integrity of existing boundaries of political subdivisions of the State will be respected to the extent practicable to minimize division in the formation of a district.
>
> 4. Districts shall preserve the voting strength of minority populations and will, wherever possible, increase the probability of minority representation from areas of sizable concentrations of minority population.
>
> IT IS FURTHER ORDERED That apportionment plans may recognize the preservation of communities of interest in the formation of districts. To the extent any consideration is given to a community of interest, the data or information upon which the consideration is based shall be identified.
>
> Jurisdictional Statement at App. 71a-72a.

Appellants do not contend that the districts created by the Court's plan violate any of these criteria.

### C. Appellants do not argue that the district court erred in adopting those criteria as the exclusive criteria on which congressional redistricting plans should be judged.

At the time the district court was considering what criteria it should adopt to govern congressional redistricting plans, appellants-intervenors suggested the following:

> The Court states its intention to adopt a plan of redistricting Minnesota's congressional districts so that the districts shall be not overlapping, compact, contiguous, and equal in population according to the latest available census figures provided by the United States Bureau of the Census. Consistent with, and subservient to, the basic principle of equality of population, the plan will respect concentrations of identifiable and "protected" racial minorities so as to not fragment their voting strength; preserve the integrity of existing political subdivisions; and avoid voter confusion by maintaining, wherever possible, existing congressional district lines. No consideration shall be given to the residences of incumbent members of the Congress or to the voting patterns, political or otherwise, of electors.

*Intervenors' Statement of Suggested Criteria for Redistricting*, (November —, 1981), App. A-1-2.

Appellees-plaintiffs made timely objection to appellants-intervenors proposed criterion of "maintaining . . . existing congressional district lines". *Plaintiffs' Objection to Criteria for Redistricting Submitted by Intervenors* (November 12, 1981). App. A-3. The Court's order of December 29,

1981 does not include "maintaining . . . existing congressional district lines" among its criteria to govern congressional redistricting plans. *See* Jurisdictional Statement at App. 71-75a. Judge Alsop, in concurring with the criteria thus adopted, took pains to point out to the parties that any criteria requested by the parties but not included in the Court's order should not be used to impeach plans later presented or adopted.

> In concurring with the criteria as adopted, I write separately to state my view that any plan meeting the stated criteria should not be reviewed by any further standard, unless or until a statement thereof has been adopted by a majority of the court. Jurisdictional Statement at App. 74a-75a.

No further criteria were later adopted by the Court. (In dissenting from adoption of the redistricting plan, Judge Alsop explained that he preferred the Masters' Minimal Change Plan because it not only "meets the adopted criteria *but also respects existing district boundaries*", Jurisdictional Statement at App. 18a (emphasis added) but did not explain how he reconciled his dissent on the plan with his concurrence in the criteria on which the plan should be judged.)

Appellants-intervenors do not argue that the district court abused its equitable discretion in refusing to order that *all* congressional redistricting plans submitted to it "avoid voter confusion by maintaining, wherever possible, existing congressional district lines." *Intervenors Statement of Suggested Criteria for Redistricting* (November —, 1981), App. A-2. The district court's plan should not now be impeached on the basis of a criterion previously requested by appellants-intervenors and unanimously rejected by the three-judge court. The judgment of the district court should be affirmed.

**D. Question 1 raised by appellants, i.e., whether the Court below abused its remedial equitable discretion by adopting a congressional redistricting plan that adhered to prior district lines less closely than did other plans presented to the Court, is so unsubstantial as not to need further argument.**

**1. There is no compelling reason to base a 1982 congressional redistricting plan upon a map that was drawn up using 1970 census figures.**

The congressional district lines most recently enacted by the Minnesota Legislature are more than ten years old. *See* Minn. Laws 1971, Ch. 897.

> There is little justification for adhering to the core of a map drawn up using outmoded census figures. *Skolnick v. State Electoral Board*, 336 F. Supp. 839, 845 (N.D. Ill. 1971).

As the Court observed in *Skolnick*, "there is no compelling reason" to apply current census figures to a congressional district's map that was drawn up many years before based upon the census figures of the previous decade. *Id.* There the Illinois congressional delegation argued that the Court should adopt

> . . . the so-called "core" principle, namely the conscious adherence to previous district boundaries, with concessions made to preexisting boundaries only when population changes so require. The argument advanced in support of the core principle is that the court in applying the principle is required to involve itself as little as possible in the "political" task of reappor-

tionment; it merely takes the existing map as it finds it and alters a few boundary lines to accommodate population changes.

To the extent the core of the 1965 Congressional map was changed to create the proposed Delegation map, that change was effected by the incumbent congressmen who revamped the boundaries of the districts and then submitted the map to the Delegation's expert, Dr. Godwin, for his comparison with 1970 census data. Of course, there was no evidence introduced of the drafter's drawing up district boundaries to solidify their own partisan electoral support. And . . . there appears to be no constitutional infirmity in drawing an otherwise valid map which protects incumbents. Nevertheless, there are compelling reasons why the core principle should not be accorded the status of the primary and controlling non-population factor which must dictate our choice in this matter.

The core of the existing Congressional map, the one used in the last election, is almost certainly outmoded at this date. . . .

. . . The core was originally drawn ten years ago, based upon the 1960 census. It was held unconstitutional, redrawn provisionally, and again held unconstitutional. It is sophistry to claim now that the core is a creation of the state legislature which should be changed slightly but preserved in its essence. It has been changed once, considerably, by this court, and it would be changed considerably again if the Delegation map were adopted, so that it can in no way properly be called the "legislature's" map.

. . . Now, however, the 1970 census figures are available, and there is no compelling reason to apply them to the 1961-1965 core.

. . . We perceive nothing in our previous rulings which affords a basis for [the] premise that our juris-

> diction in this matter is limited to arriving at a reapportionment plan based on outmoded cores. Nor, in our order inviting interested parties to submit reapportionment proposals, did we require the proposals to begin with the 1965 core. *Id.* at 844-45.

While "there appears to be no constitutional infirmity in drawing an otherwise valid map which protects incumbents", *Id.* at 844, *accord, White v. Weiser,* 412 U.S. 783, 791 (1973); *Ely v. Klahr,* 403 U.S. 108, 112 (1971); *Burns v. Richardson,* 384 U.S. 73, 89 n. 16 (1966); and it may be a reversible error for a federal district court to invalidate a legislatively-enacted congressional redistricting plan that seeks to preserve the cores of preexisting districts and to preserve the districts of incumbent congressmen, solely because there were other plans considered by the legislature that achieved an infinitesimally greater degree of population equality, *see Karcher v. Daggett,* 50 U.S.L.W. 3767 (U.S. March 23, 1982) (Brennan, J., in chambers), *motion to vacate stay denied,* 50 U.S.L.W. 3782 (U.S. March 30, 1982), there is no *requirement* that a congressional redistricting plan adhere to ten-year-old congressional district lines and depart only where population changes require a modification of the "cores" of the districts. *Skolnick,* 336 F. Supp. at 844-45; *accord, Dunnell v. Austin,* 344 F. Supp. 210 (E.D. Mich. 1972).

The fact that some district courts may have used the criterion of maintaining existing congressional district lines wherever possible to justify their choice of a particular plan from among competing plans, *see NAACP v. Riley,* No. 81-2287-6 (D.S.C. March 8, 1982); *Doulin v. White,* No. LR-C-81-418, slip op. at 5 (E.D. Ark. February 25, 1982); *David v. Cahill,* 342 F.Supp. 463 (D.N.J. 1972); *Citizens*

*Committee for Fair Congressional Redistricting, Inc. v. Tawes,* 253 F. Supp. 731 (D. Md. 1966) *aff'd sub nom. Alton v. Tawes,* 384 U.S. 315 (1966), does not serve to elevate it to the level of a constitutional or equitable imperative. *See Shayer v. Kirkpatrick,* No. 81-4144-CV-C (W.D. Mo. January 7, 1982), *appeal docketed sub nom. Schatzle v. Kirkpatrick,* No. 81-1731, 50 U.S.L.W. 3810 (U.S. April 6, 1982); *Carstens v. Lamm,* No. 81-F-1713 (D. Colo. January 28, 1982); *In re Congressional Districts Reapportionment Cases,* No. 81 C 3915 (N.D. Ill. December 3, 1981), *aff'd sub nom. Ryan v. Otto,* 50 U.S.L.W. 3546 (U.S. January 12, 1982); *Skolnick, supra; Dunnell v. Austin, supra.*

This case is virtually on all fours with *Skolnick*. The decisions of the district courts are not in conflict. The judgment of the district court below should be affirmed summarily on the basis of *Skolnick* alone.

There is, moreover, a wealth of additional bases for affirming the judgment of the district court.

### 2. The Minnesota Legislature has not expressed a policy with regard to 1982 congressional redistricting.

The Minnesota Legislature adjourned its 1982 regular session *sine die* on March 19, 1982 without having enacted a congressional redistricting bill. The Minnesota Senate defeated a motion to adopt a plan previously passed by the House of Representatives that generally adhered to the 1971 congressional district lines, and passed instead a plan creating four districts in the metropolitan area and four districts outstate. Journal of the Senate, Seventy-Second Legislature, Sixty-Fifth Day, 3359-60 (January 27, 1982), App. A-15-16. The House of Representatives refused to concur in

the Senate Amendments and adopted a motion that the Speaker of the House appoint a conference committee. Journal of the House, Seventy-Second Legislature, Sixty-Sixth Day, 4659-60 (January 28, 1982), App. A-18.

That the Senate endorsed a proposal inconsistent with the House plan entitled the district court to conclude that the State "has expressed no coherent policy with regard to congressional reapportionment." *In re Congressional Districts Reapportionment Cases,* No. 81 C 3915, slip op. at 24 n. 20 (N.D. Ill. December 3, 1981), *aff'd sub nom. Ryan v. Otto,* 50 U.S.L.W. 3546 (U.S. January 12, 1982); *accord, Carstens v. Lamm,* No. 81-F-1713, slip op. at 11 (D. Colo. January 28, 1982); *Shayer v. Kirkpatrick,* No. 81-4144-CV-C, slip op. at 20-21 (W.D. Mo. January 7, 1982), *appeal docketed sub nom. Schatzle v. Kirkpatrick,* No. 81-1731, 50 U.S.L.W. 3810 (U.S. April 6, 1982); *Dunnell v. Austin,* 344 F. Supp. 210, 217 (E.D. Mo. 1972). *See also Doulin v. White,* No. LR-C-81-418, slip. op. at 7 (E.D. Ark. February 25, 1982).

The case here is to be distinguished from *White v. Weiser,* 412 U.S. 783 (1973), where congressional district lines had been passed by the Texas Legislature and signed into law by the Governor only months before the three judge court issued its order. *See* 412 U.S. at 784, 788.

### 3. Current state policy recognizes the seven-county Twin Cities metropolitan area as a political entity with unique governmental concerns.

Since 1971 when congressional district lines were last drawn by the Minnesota Legislature, the Legislature has enacted laws greatly strengthening the powers of the Metro-

politan Council to supervise and coordinate regional government in the seven-county Twin Cities metropolitan area. *See* Minn. Laws 1974, Ch. 422. The Legislature has also expanded the governmental functions that are performed on a regional basis in the metropolitan area, such as the provision of parks and open space, Minn. Laws 1974, Ch. 563; land use planning, Minn. Laws 1976, Ch. 127; hazardous waste disposal, Minn. Laws 1976, Ch. 179; and construction and operation of sports facilities, Minn. Laws 1977, Ch. 89. The metropolitan area is not "cartographically-contrived" Jurisdictional Statement at 8, as appellants would have this Court believe. Rather, it is an established political entity with unique governmental concerns. *See generally* Minn. Stat. 1980, Chs. 473 (Metropolitan Government), 473F (Metropolitan Revenue Distribution), and 473H (Metropolitan Agricultural Preserves Act).

The seven-county Twin Cities metropolitan area was first recognized by the Minnesota Supreme Court as a political subdivision in 1975. *City of New Brighton v. Metropolitan Council,* 306 Minn. 425, 428, 237 N.W. 2d 620, 623 (1975); *accord, Lifteau v. Metropolitan Sports Facilities Commission,* 270 N.W. 2d 749, 756 (Minn. 1978).

The extent to which the State of Minnesota has recognized the metropolitan area as a region with political interests and concerns different from those of outstate Minnesota has thus changed substantially since 1971. That this change in state policy toward the metropolitan area should be reflected in the congressional districts drawn up in 1982 was the subject of specific findings by the Seventy-Second Minnesota State Senate in its own congressional redistricting plan:

Sec. 2. [2.733] [LEGISLATIVE FINDINGS.]

> The legislature finds that the state of Minnesota embraces two main communities of interest: the seven-county metropolitan area consisting of the counties of Hennepin, Ramsey, Dakota, Washington, Anoka, Carver and Scott, and the outstate area, consisting of the eighty other counties. The legislature further finds that the population of these two main communities of interest is approximately equal, and that to ensure that the residents of the state of Minnesota receive the most effective representation in the Congress of the United States of America, that the congressional district boundaries should reflect these two main communities of interest; that the current congressional district boundaries result in an inequality of representation in that only three of the eight current congressional districts are predominantly metropolitan in character, whereas five of the eight current congressional districts are predominantly outstate in character; that to alleviate this inequality of representation the legislature finds that the eight congressional districts should be allocated to each of the two main communities of interest on an equal basis with four congressional districts encompassing the seven-county metropolitan area, plus the counties of Chisago and Isanti to ensure population equality, and four congressional districts encompassing the remaining outstate area.
>
> Journal of the Senate, Seventy-Second Legislature, Sixty-Fourth Day, 3337-38 (January 26, 1982), App. A-4-5, *as amended, Id.*, Sixty-Fifth Day, 3356-57 (January 27, 1982), App. A-9-10.

The Senate plan passed the Senate by a vote of 40 to 23 on January 27, 1982. *Id.* at 3360, App. 15a-16a.

While the Seventy-Second Minnesota State Senate's "four-four" plan may represent only "proffered current policy", *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S.

187, 197 (1972), the Court could have chosen to adopt it as the Court's own. *NAACP v. Riley*, No. 81-2287-6 (D.S.C. March 8, 1982); *Doulin v. White*, No. LR-C-81-418 (E.D. Ark. February 25, 1982); *Skolnick v. State Electoral Board*, 336 F. Supp. 839 (N.D. Ill. 1971). *See Carstens v. Lamm*, No. 81-F-1713, slip op. at 12 (D. Colo. January 28, 1982); *David v. Cahill*, 342 F. Supp. 463 (1972); *Preisler v. Secretary of State*, 341 F. Supp. 1158 (W.D. Mo. 1972). The decision of the district court to adopt a "four-four" congressional redistricting plan similar to the one that passed the Senate was entirely appropriate, and certainly not the "cavalier usurpation of state authority" that appellants allege. Jurisdictional Statement at 8.

#### 4. The Court below adhered to 1971 congressional district boundaries in most districts.

In *White v. Weiser*, 412 U.S. 783 (1973), relied upon by appellants, Jurisdictional Statement at 10, this Court reversed the decision of a three-judge court that adopted a congressional redistricting plan for the State of Texas, where the Court's plan "made no attempt to adhere to the district configurations", *Id.* at 794, enacted by the Texas Legislature only months before. *See* 412 U.S. at 784, 788.

As a review of Figure 1, Jurisdictional Statement at App. 13a, and Figure 3, Jurisdictional Statement at App. 24a, confirms, the Court below took "as its starting point the last configuration of congressional districts." Jurisdictional Statement at App. 11a. Districts 1, 4, 5, 7, and 8 are substantially similar, in the Court's plan, to the districts of the same number in the 1971 plan.

> The districts are modified only to serve state policy and satisfy the constitutional mandate that one person's vote shall equal another's. *Id.*

Appellants' reliance on *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187 (1972), Jurisdictional Statement at 11, is misplaced. There a three-judge court, in the face of a statute that set the number of senate districts at 67 and the number of house districts at 135, had reduced the number of senate districts to 35 and the number of house districts to 105, reducing the number of senators by almost 50 percent and the number of representatives by nearly 25 percent. *Id.* What caused this Court to reverse the district court was not a failure by the district court to adhere *precisely* to the state policy on the size of the Legislature, but rather the degree to which the district court departed from state policy without adequate justification.

> We do not disapprove a court-imposed minor variation from a State's prescribed figure when that change is shown to be necessary to meet constitutional requirements. . . . But to slash a state senate's size almost in half and a state house's size by nearly one-fourth is more than a mere minor variation. *Id.* at 199.

Here the district court followed the old districts as far as it could and departed from them only as necessary to further other constitutional and equitable goals. *Cf. Whitcomb v. Chavis*, 403 U.S. 124, 161 (1971).

### 5. The Court stated good and sufficient reasons for not adhering more closely to prior congressional district lines.

In *White v. Weiser*, 412 U.S. 783 (1973), the district court's only reasons for not more closely adhering to the congressional district lines enacted by the Legislature were that

> Plan C is based solely on population and is significantly more compact and contiguous than either S. B. 1 or Plan B . . . The Court has considered Plans B and C . . . and concludes that Plan C best effectuates the principle of "one man, one vote" enunciated by the Supreme Court. *Id.* at 794.

This Court found that:

> [E]ven if the districts in Plan C can be called more compact, the District Court's preferences do not override whatever state goals were embodied in S. B. 1 and, derivatively, in Plan B. *Id.* at 796.

The reasons given by the district court in *White v. Weiser* were especially weak, since even though Plan C was based "solely on population", "Plan B achieved the goal of population equality to a greater extent than did Plan C." *Id.* at 796.

> If there was a good reason for adopting Plan C rather than Plan B, the District Court failed to state it. *Id.* at 796-97.

Here, on the other hand, the district court articulated five good and sufficient reasons for adopting its congressional redistricting plan:

> 1. The plan recognizes the fact, after the population changes of the last decade, that essentially one-half of the people of Minnesota live in the metropolitan area and one-half live in out-state Minnesota.
>
> 2. The plan best advances the State's Constitutional policy that districts be "of convenient contiguous territory." Minnesota Constitution, Article IV, Section 3. It does so by:

a. Preserving rather than splitting the natural grouping of the metropolitan residents in the formation of districts. It recognizes to the extent possible the community of interests that metropolitan residents share. It recognizes to the same extent the community of interests shared by the out-state residents.

b. Forming districts that are compact.

3. The plan best advances the State's statutory policy to recognize the metropolitan area as a distinct region of the State with unique governmental concerns. *See e.g.* Minn. Laws 1957, Ch. 468 (creating a comprehensive planning agency for the region); Minn. Laws 1967, Ch. 892 (creating the metropolitan transit commission); Minn. Laws 1971, Ex. Sess. Ch. 24 (creating metropolitan revenue distribution); *Lifteau v. Metropolitan Sports Facilities Commission*, 270 N.W. 2d 749, 756 (Minn. 1978) (Metropolitan Council is a political subdivision of the State); *City of New Brighton v. Metropolitan Council*, 306 Minn. 425, 428, 237 N.W. 2d 620, 623 (1975) (same).

4. The plan is consistent with the principles employed in the apportionment of legislative districts in the companion case *Sharon LaComb, et al. v. Joan Growe, Secretary of State of Minnesota, et al*, Civ. 4-81-152. In both instances, every effort was made to preserve rather than dilute the effective representation of people with like needs and concerns. In the metropolitan area, we deliberately confined the legislative districts to the boundaries of the seven-county area wherever possible without breach of the other criteria adopted by the Court. Within that seven-county area, in turn, we made every effort to confine districts to municipal boundaries. The urban and suburban communities of interest were accorded strong recognition. The out-state area, consequently, was also accorded strong recognition as a broad community of interest

within which the Court preserved county, township and municipal boundaries to the maximum extent possible. Neither the legislative nor the congressional plan was drawn to protect incumbents.

5. The plan best meets the criteria adopted by the Court for congressional redistricting. Jurisdictional Statement at App. 4a-6a (footnotes omitted).

### E. Question II raised by appellants, i.e., whether the preference of the Court below for recognition of the seven-county Twin Cities metropolitan area as a community of interest justified the Court's adoption of a congressional redistricting plan that adhered to prior district lines less closely than other plans presented to the Court, is so unsubstantial as not to need further argument.

#### 1. Departing from the 1971 congressional district lines enabled the Court to provide equal representation to residents of the metropolitan area.

In *White v. Weiser*, 412 U.S. 783 (1973), this Court held that a federal district court

> should follow the policies and preferences of the State, as expressed in statutory and constitutional provisions or in the reapportionment plans proposed by the state legislature, whenever adherence to state policy does not detract from the requirements of the Federal Constitution, . . . in the context of congressional reapportionment. *Id.* at 795.

As the Court pointed out,

> Of course, the District Court should defer to state policy in fashioning relief only where that policy is con-

sistent with constitutional norms and is not itself vulnerable to legal challenge. *Id.* at 797.

"The primary goal of an acceptable congressional redistricting plan should be 'fair and effective representation of all citizens.' *Reynolds v. Sims,* 377 U.S. 533, 565-66 (1964)." *Carstens v. Lamm,* No. 81-F-1713, slip op. at 13 (D. Colo. January 28, 1982). Here, a closer adherence to the 1971 congressional district lines would have denied fair and effective representation to residents of the metropolitan area.

Under each of the plans that adhered to the 1971 congressional district boundaries more closely than the Court's plan did, a portion of the metropolitan area population almost enough for one congressional district would have been fragmented among three or four predominantly outstate districts, where their metropolitan points of view would have been assured to remain in the minority.

Under Plan A presented by appellants to the district court, four districts combined metropolitan area residents with outstate residents. In each district, the outstate residents would have dominated, as follows:

PLAN A

| | Total Population | Metro Population | Percent Metro |
|---|---|---|---|
| District 1 | 509,474 | 181,628 | 35.6 |
| District 2 | 509,520 | 166,310 | 32.6 |
| District 6 | 509,476 | 11,261 | 2.2 |
| District 8 | 509,498 | 98,209 | 19.3 |
| | | 457,408 | |

Plan B presented by appellants to the Court below combined metropolitan and outstate residents in three districts, each dominated by the outstate residents, as follows:

PLAN B

| | Total Population | Metro Population | Percent Metro |
|---|---|---|---|
| District 1 | 509,534 | 181,688 | 35.6 |
| District 2 | 509,577 | 181,221 | 35.6 |
| District 8 | 509,501 | 98,212 | 19.3 |
| | | 461,121 | |

The Masters' Minimal Change Plan, preferred by Judge Alsop, below, likewise combined metropolitan and outstate residents in three districts, each dominated by the outstate residents, as follows:

MASTERS' MINIMAL CHANGE PLAN

| | Total Population | Metro Population | Percent Metro |
|---|---|---|---|
| District 1 | 509,519 | 209,064 | 41.0 |
| District 2 | 509,506 | 153,024 | 30.0 |
| District 8 | 509,475 | 95,294 | 18.7 |
| | | 457,382 | |

Because residents of the metropolitan area would have been in a majority in only three of the eight congressional districts, rather than four as the Court's plan provides, plans that adhered more closely to the 1971 congressional district boundaries would have insured that the views of residents of the metropolitan area would not have been equally represented in Congress with the views of outstate Minnesota, contrary to the equal division of population between the metropolitan area and outstate Minnesota.

### 2. Departing from the 1971 congressional district lines enabled the Court to follow other compelling state policies previously adopted by the Court as criteria to govern 1982 congressional redistricting plans.

In *White v. Weiser*, 412 U.S. 783 (1973) this Court held that the redistricting plan enacted by the Texas Legislature only months before should not have been "unnecessarily" put aside in the course of fashioning relief appropriate to remedy what were held to be impermissible population variations between congressional districts. *Id.* at 796.

> [T]he District Court did not suggest or hold that the legislative policy of districting so as to preserve the constituencies of congressional incumbents was unconstitutional or even undesirable. *Id* at 797.

In determining what factors might make adherence to 1971 congressional district lines in the metropolitan area "undesirable", *Id.*, it was appropriate for the district court to have resorted to additional non-constitutional criteria. *In re Congressional Districts Reapportionment Cases*, No. 81 C 3915, slip op. at 16-26 (N.D. Ill. December 3, 1981), *aff'd sub nom. Ryan v. Otto*, 50 U.S.L.W. 3546 (U.S. January 12, 1982). These criteria may include compactness, preservation of political subdivision boundaries, and preservation of communities of interest. *NAACP v. Riley*, No. 81-2287-6 (D.S.C. March 8, 1982); *Carstens v. Lamm*, No. 81-F-1713 (D. Colo. January 28, 1982); *Dunnell v. Austin*, 344 F. Supp. 210 (E.D. Mich. 1972); *David v. Cahill*, 342 F. Supp. 463 (D.N.J. 1972); *Skolnick v. State Electoral Board*, 336 F. Supp. 839 (1971); *Citizens Committee for*

*Fair Congressional Redistricting, Inc. v. Tawes,* 253 F. Supp. 731 (D. Md. 1966) *aff'd sub nom. Alton v. Tawes,* 384 U.S. 315 (1966).

### a. Compactness.

Providing for compact districts is a proper judicial approach to congressional redistricting. *NAACP v. Riley,* slip op. at 8; *Carstens v. Lamm,* slip op. at 24-26, 37; *Dunnell v. Austin,* 344 F. Supp. 210 (E.D. Mich. 1972); *David v. Cahill,* 342 F. Supp. 463 (D.N.J. 1972); *Preisler v. Secretary of State,* 341 F. Supp. 1158 (W.D. Mo. 1972); *Skolnick v. State Electoral Board,* 336 F. Supp. 839, 843 (1971) *Tawes,* 253 F. Supp. at 734. *See* criterion 2, Jurisdictional Statement at App. 72a.

Departing from the 1971 congressional district lines enabled the Court to draw 1982 congressional districts that are more compact than those provided for under plans that adhered more closely to 1971 congressional district lines.

> Because they separately group the metropolitan population and the out-state population [the districts drawn by the Court] are necessarily more compact than the plans of the Minnesota Independent Republican Congressional Delegation. Under the delegation's Plan A, seven of the eight districts draw on the metropolitan area. Consequently, districts extend from north of Grand Marais to Coon Rapids, from the Iowa border to Forest Lake and to Eagan, and from extreme southwestern Minnesota on the South Dakota and Iowa borders to Wayzata continuing north to East Side Township in Mille Lacs County. For the same reason, its Plan B is not as compact as reasonably possible. Districts extend from extreme northeastern Minnesota to White Bear Lake, from the Iowa border to Forest Lake and to Shorewood, and from extreme southwest-

> ern Minnesota to the top of Mille Lacs County. These districts neither comply with the Minnesota Constitutional mandate of districts of "convenient contiguous territory" nor the Court's criteria of compactness. Jurisdictional Statement at App. 8a.

The Court's districts are likewise more compact than the districts in the Masters' Minimal Change Plan. *See* Figure 4, Jurisdictional Statement at App. 25a.

**b. Respect for Political Subdivisions.**

Respecting political subdivisions is a proper judicial approach to congressional redistricting. *NAACP v. Riley*, No. 81-2287-6 (D.S.C. March 8, 1982); *Carstens v. Lamm*, slip op. at 26-30, 38-39; *Shayer v. Kirkpatrick*, No. 81-4144-CV-C, slip op. at 22 (W.D. Mo. January 7, 1982), *appeal docketed sub nom. Schatzle v. Kirkpatrick*, No. 81-1731, 50 U.S.L.W. 3810 (U.S. April 6, 1982); *Dunnell v. Austin*, 344 F. Supp. 210 (E.D. Mich. 1972); *David v. Cahill*, 342 F. Supp. 463 (D.N.J. 1972); *Preisler v. Secretary of State*, 341 F. Supp. 1158 (W.D. Mo. 1972); *Skolnick v. State Electoral Board*, 336 F. Supp. 839, 843 (N.D. Ill. 1971); *Citizens Committee for Fair Congressional Redistricting, Inc. v. Tawes*, 253 F. Supp. 731 (D. Md. 1966), *aff'd sub nom. Alton v. Tawes*, 384 U.S. 315 (1966). *See* criterion 3, Jurisdictional Statement at App. 72a.

Departing from the 1971 congressional district lines enabled the district court to better preserve the integrity of the metropolitan area as a political subdivision in the formation of districts. Plan A would have split the metropolitan area among seven congressional districts; Plan B and the Masters' Minimal Change Plan would have each split the metropolitan area among six congressional districts;

the Court's plan splits it among only five congressional districts.

### c. Preservation of Communities of Interest.

Preserving communities of interest is a proper judicial approach to congressional redistricting. *NAACP v. Riley*, No. 81-2287-6 (D.S.C. March 8, 1982); *Carstens v. Lamm*, slip op. at 30-34, 39-42; *Shayer v. Kirkpatrick*, slip op. at 23-24; *Dunnell v. Austin*, 344 F. Supp. at 216; *Citizens Committee for Fair Congressional Redistricting, Inc. v. Tawes*, 253 F. Supp. at 735; *Skolnick v. State Electoral Board*, 336 F. Supp. at 845-46.

> [C]ommunities of interest represent distinctive units which share common concerns with respect to one or more identifiable features such as geography, demography, ethnicity, culture, socio-economic status or trade. We are convinced that a plan which provides fair and effective representation . . . must identify and respect the most important communities of interest within the state. *Carstens v. Lamm*, slip op. at 30-31.

*See also* Jurisdictional Statement at App. 72a.

Departing from the 1971 congressional district lines enabled the Court to preserve the metropolitan area as a community of interest in the formation of districts.

Respecting the integrity of a multi-county area for which regional governmental authorities have been created by state law is a proper judicial approach to congressional redistricting. *Dunnell v. Austin*, 344 F. Supp. at 216 (Southeastern Michigan Council of Governments; Southeastern Michigan Transportation Authority). The Court's plan puts

the seven-county Twin Cities metropolitan area into only four congressional districts, the minimum number possible.

Respecting the integrity of a metropolitan area that extends beyond a central city to include suburban areas in adjacent counties is a proper judicial approach to congressional redistricting.

> It is entirely appropriate to recognize the existence of metropolitan communities . . . The settlements in the county nearest the city consist of people quite like those living on the other side of the city's boundary lines. Present district boundaries are not sacrosanct, and may be extended into neighboring counties, if this is necessary to constitute districts of sufficient size. *Tawes*, 253 F. Supp. at 735.

*Accord, NAACP v. Riley*, No. 81-2287-6 (D.S.C. March 8, 1982). In *NAACP v. Riley*, relied upon by appellants in their Supplement to Jurisdictional Statement and Motion to Expedite, the district court made sure to put the central cities and their suburbs in the three multi-county metropolitan areas of Greenville, Columbia, and Charleston each in their own congressional district, whatever may have been the impact on the old congressional district lines. The plan adopted by the district court in this case puts Minneapolis-St. Paul and their suburbs into four congressional districts, the minimum number possible.

Respecting the divergent interests between urban and rural areas by grouping urban areas into certain districts and rural areas into other districts is a proper judicial approach to congressional redistricting. *Carstens v. Lamm*, slip op. at 31-33, 39-42; *Shayer v. Kirkpatrick*, slip op. at 24; *Dunnell v. Austin*, 344 F. Supp. at 216. The Court's plan creates four districts for the metropolitan area

and four separate districts for the rural areas of outstate Minnesota.

### 3. The plan adopted by the district court achieves the goal of population equality to a greater extent than plans that more closely adhered to 1971 congressional district lines.

This Court has never reversed a decision of a federal district court that adopted a congressional redistricting plan that achieved the goal of population equality better than any other plan presented to the district court. *See In re Congressional Districts Reapportionment Cases,* No. 81 C 3915 (N.D. Ill. December 3, 1981), *aff'd sub nom. Ryan v. Otto,* 50 U.S.L.W. 3546 (U.S. January 12, 1982); *Citizens Committee for Fair Congressional Redistricting, Inc. v. Tawes,* 253 F. Supp. 731 (D. Md. 1966) *aff'd sub nom. Alton v. Tawes,* 384 U.S. 315 (1966). *Cf. White v. Weiser,* 412 U.S. 783 (1973).

In *White v. Weiser,* Plan C, adopted by the district court, which was reversed by this Court, did not achieve the goal of population equality to as great a degree as Plan B, which followed the congressional district lines so recently enacted by the legislature. *Id.* at 796.

In contrast, the plan adopted by the district court in this case achieves the goal of population equality better than any other plan presented to the district court.

The following table compares the population deviations and ranges of the various plans presented to the district court:

| | Plaintiffs | Orwoll "A" | Orwoll "B" | Senate | Court | Alsop |
|---|---|---|---|---|---|---|
| Deviation | 1219 | 41 | 81 | 1188 | 10 | 23 |
| | .24% | .01% | .02% | .23% | .00% | .00% |
| | -958 | -22 | -110 | -1236 | -36 | -24 |
| | -.19% | .00% | -.02% | -.24% | -.01% | .00% |
| Overall Range | 2177 | 63 | 191 | 2424 | 46 | 47 |
| | .43% | .01% | .04% | .47% | .01% | .01% |
| Mean Deviation | 637 | 17 | 44 | 650 | 9 | 15 |
| | .13% | .00% | .01% | .13% | .00% | .00% |

The overall range and mean deviation of the plan adopted by the district court are lower than those of any of the other plans submitted to the Court, including those that more closely adhered to the 1971 congressional district lines. The judgment of the district court should be affirmed.

## CONCLUSION

Appellants do not contend that the congressional redistricting plan adopted by the district court violates any constitutional criteria for congressional districts; they do not contend that it violates any of the criteria adopted by the district court below to govern congressional redistricting; nor do they argue that the district court erred in adopting those criteria as the *exclusive* criteria on which congressional redistricting plans should be judged. Appellants have not shown that the judgment of the district court is contrary to the decisions of this Court nor that it is in conflict with the decisions of other district courts in congressional redistricting cases. It is manifest that the questions presented by the appeal are so unsubstantial as not to need further argument. Therefore, the Seventy-Second Minnesota State Senate, *amicus curiae*, respectfully requests that the motions of appellees and Sharon LaComb et al. and Minnesota Secre-

tary of State Joan Growe to affirm the judgment of the district court be granted.

Respectfully submitted,

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*Seventy-Second*
*Minnesota State Senate*

April 15, 1982

# Appendix

## APPENDIX

---

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

---

SHARON LaCOMB, et al.,

Plaintiffs,

vs.

JOAN GROWE, Secretary of State of Minnesota, et al.,

Defendants,

LAVERNE ORWOLL, et al.,

Intervenors.

---

INTERVENORS' STATEMENT OF SUGGESTED CRITERIA FOR REDISTRICTING

4-81-Civ-414

Pursuant to the Court's Order of October 8, 1981 requesting the parties to submit suggested criteria to be used by the Court in the redistricting process, Intervenors Laverne Orwoll, Wilma Grams, David A. Broden, Donna Denkinger, Carrolyn Anderson, John Schnobrich, Henry Berghuis and Dorothy Nelson respectfully submit the following statement and request the Court to adopt the same as the criteria for the redistricting of Minnesota's congressional districts:

"The Court states its intention to adopt a plan of redistricting Minnesota's congressional districts so that the districts

shall be not overlapping, compact, contiguous, and equal in population according to the latest available census figures provided by the United States Bureau of the Census. Consistent with, and subservient to, the basic principle of equality of population, the plan will respect concentrations of identifiable and 'protected' racial minorities so as to not fragment their voting strength; preserve the integrity of existing political subdivisions; and avoid voter confusion by maintaining, wherever possible, existing congressional district lines. No consideration shall be given to the residences of incumbent members of the Congress or to the voting patterns, political or otherwise, of electors."

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## PLAINTIFFS' OBJECTION TO CRITERIA FOR RE-DISTRICTING SUBMITTED BY INTERVENORS

4-81 Civil 414

Pursuant to this Court's Order of October 8, 1981, Plaintiffs hereby state the following objection to the criteria for redistricting submitted by Intervenors:

1. Plaintiffs object to that portion of the Intervenors' statement which provides:

> ". . . and avoid voter confusion by maintaining, wherever possible, existing congressional district lines."

The basis for this objection is that there is, as a matter of law, no legal basis for restricting this Court's discretion in fashioning a redistricting plan by limiting that discretion to existing congressional district lines. The obligation of this Court, should that duty devolve upon it, is to adopt a plan which provides for equal population (as nearly as possible). If that duty can best be carried out by "starting from scratch" in redrawing the district lines, this Court has authority to do so. If that duty can best be carried out by not "starting from scratch", the Court can so determine.

Intervenors have cited no judicial authority for the proposition that existing congressional district lines should be maintained.

LEONARD & WEINBLATT
By /s/ Alan W. Weinblatt
ALAN W. WEINBLATT
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Attorney for Plaintiffs

Dated: November 12, 1981

JOURNAL OF THE SENATE [64TH DAY] TUESDAY, JANUARY 26, 1982

[3337]

* * *

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1478 for comparison with companion Senate File, reports the following House File was found not identical with its companion Senate File as follows:

GENERAL ORDERS
H.F. No. S.F. No.
1478 1387
CONSENT CALENDAR
H.F. No. S.F. No
CALENDAR
H.F. No. S.F. No.

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1478 be amended as follows:

Page 1, after line 7, insert:

"Section 1. [2.732] [LEGISLATIVE FINDINGS.]

[3338]

*The legislature finds that the state of Minnesota is divided into two main communities of interest: the seven-county metropolitan area consisting of the counties of Hennepin, Ramsey, Dakota, Washington, Anoka, Carver and Scott, and the outstate area, consisting of the eighty other counties. The legislature further finds that the population of the state is generally equally divided between these two main*

*communities of interest, and that to ensure that the residents of the state of Minnesota receive the most effective representation in the Congress of the United States of America, that the congressional district boundaries should reflect these two main communities of interest; that the current congressional district boundaries result in a fragmentation of the representation of these two communities of interest in that seven of the eight current congressional districts encompass all or part of both of the two main communities of interest; that to alleviate this fragmentation of representation the legislature finds that the eight congressional districts should be allocated to each of the two main communities of interest on an equal basis with four congressional districts encompassing the seven-county metropolitan area and the counties of Chisago and Isanti to ensure population equality, and four congressional districts allocated to the remaining seventy-eight-county outstate area.*"

Page 1, delete lines 12 to 15 and insert "counties of *Blue Earth*, Dodge, *Faribault*, Fillmore, *Freeborn*, ~~Goodhue,~~ Houston, *Mower*, Olmsted, Rice, Steele, Wabasha, ~~Washington~~ *Waseca*, and Winona, ~~and~~ that portion of the county of ~~Dakota~~ *Goodhue* not included in the second congressional district, *that portion of the county of LeSueur consisting of the cities of Heidelberg, Kilkenny, Montgomery, New Prague and Waterville, and the townships of Derrynane, Kilkenny, Lanesburgh, Montgomery and Waterville, and that portion of the county of Nicollet consisting of the cities of Mankato and North Mankato.*"

Page 1, delete lines 20 to 25

Page 2, delete lines 1 to 4 and insert "counties of ~~Blue Earth,~~ ~~Brown,~~ Carver, ~~Faribault,~~ ~~Freeborn,~~ ~~LeSueur,~~ ~~Martin,~~

~~McLeod, Mower, Nicollet,~~ *and* Scott, ~~Sibley, Waseca, and Watonwan, and~~ that portion of the county of Dakota ~~consisting of the towns of Eagan and Eureka, and the cities of Apple Valley, Burnsville, Farmington, and Lakeville~~ *not included in the fourth congressional district, that portion of the county of Goodhue consisting of the city of Cannon Falls and the townships of Cannon Falls and Stanton,* and that portion of the county of Hennepin ~~consisting of the cities of Deephaven, Excelsior, Greenwood, Long Lake, Minnetrista, Mound, Orono, St. Bonifacius, Shorewood, Spring Park, Tonka Bay, and Woodland, and the cities of Minnetonka Beach and Wayzata~~ *not included in the third or fifth congressional districts.*"

Page 2, lines 8 and 9, strike "that portion of the county of Hennepin"

Page 3, lines 7 and 8, delete "*not included in the second, fifth or sixth congressional districts*" and insert "*the counties of Chisago and Isanti, that portion of the county of Anoka not included in the fifth congressional district, that portion of the county of Hennepin consisting of the cities of Brooklyn Center, Brooklyn Park, Champlin, Corcoran, Crystal, Dayton, Greenfield, Hanover, Independence, Loretto, Maple Grove, Maple Plain, Medina, New Hope, Osseo, Rockford and Rogers, and the township of Hassan, that portion* [3339] *of the county of Ramsey consisting of the city of Spring Lake Park, and that portion of the county of Washington not included in the fourth congressional district*"

Page 3, delete lines 12 to 17 and insert:

"The fourth congressional district shall consist of that portion of the county of Ramsey not included in the ~~fifth~~ *third* congressional district, *that portion of the county of Dakota consisting of the cities of Lilydale, Mendota, Mendota Heights, South Saint Paul and West Saint Paul, and*

*that portion of the county of Washington consisting of the city of Newport."*

Page 3, delete lines 22 to 29 and insert "portion of the county of Hennepin consisting of the ~~city of~~ *cities of Minneapolis, Richfield, Robbinsdale and* St. Anthony, *any portion of the area included in the Minneapolis-St. Paul International Airport not a part of an incorporated municipality, the Fort Snelling Military Reservation,* and that portion of the city of ~~Minneapolis not included in the third congressional district,~~ *Bloomington described as follows: Commencing at the intersection of Normandale Boulevard and the northern city boundary, thence southerly along Normandale Boulevard to 98th Street, thence easterly along 98th Street to France Avenue, thence southerly along France Avenue to Overlook Drive, thence westerly along Overlook Drive to Irwin Avenue, thence southerly along Irwin Avenue to the main channel of the Minnesota River, thence easterly along the main channel of the Minnesota River to the northern city boundary, thence westerly along the northern city boundary to the point of beginning;* and that portion of the county of Anoka consisting of the cities of Hilltop; ~~Fridley~~ and Columbia Heights; ~~and that portion of the county of Ramsey consisting of the city of St. Anthony~~."

Page 3, delete lines 34 to 36

Page 4, delete lines 1 to 5 and insert "counties of ~~Benton,~~ Big Stone, *Brown,* Chippewa, Cottonwood, *Douglas,* Jackson, Kandiyohi, Lac qui Parle, Lincoln, Lyon, *Martin, Mcleod,* Meeker, ~~Mille Lacs,~~ Murray, Nobles, Pipestone, *Pope,* Redwood, Renville, Rock, ~~Sherburne, Stearns, Wright,~~ *Sibley, Swift, Traverse, Watonwan,* and Yellow Medicine, and that portion of the county of ~~Hennepin~~ *LeSueur* not included in the ~~second, third, or fifth~~ *first* congressional ~~districts~~ *district, that portion of the county of Nicollet not in-*

*cluded in the first congressional district, and that portion of the county of Stearns not included in the eighth congressional district.*"

Page 4, delete lines 10 to 14 and insert "counties of ~~Aitkin,~~ Beltrami, Becker, Cass, Clay, Clearwater, Crow Wing, ~~Douglas,~~ Grant, Hubbard, *Itasca,* Kittson, *Koochiching,* Lake of the Woods, Mahnomen, Marshall, Morrison, Norman, Otter Tail, Pennington, Polk, ~~Pope,~~ Red Lake, Roseau, Stevens, ~~Swift,~~ Todd, ~~Traverse,~~ Wadena, and Wilkin."

Page 4, delete lines 19 to 22 and insert "counties of *Aitkin, Benton,* Carlton, ~~Chisago,~~ Cook, ~~Isanti,~~ ~~Itasca,~~ Kanabec, ~~Koochiching,~~ Lake, *Mille Lacs,* Pine, ~~and~~ *Sherburne,* St. Louis *and Wright,* and that part of the county of ~~Anoka which is not included in the fifth congressional district~~ *Stearns consisting of the cities of Pleasant Lake, Sartell, St. Cloud, St. Joseph, St. Stephens and Waite Park, and the townships of Brockway, Fairhaven, Le Sauk, Lynden, St. Augusta, St. Cloud, St. Joseph and St. Wendel.*"

Renumber the sections in sequence

[3340]

Amend the title as follows:

Page 1, line 2, after "districts;" insert "making legislative findings;"

Page 1, line 5, after "2.811" insert "proposing new law coded in Minnesota Statutes, Chapter 2"

And when so amended H.F. No. 1478 will be identical to S.F. No. 1387, and further recommends that H.F. No. 1478 be given its second reading and substituted for S.F. No. 1387, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

* * *

JOURNAL OF THE SENATE [65TH DAY] WEDNESDAY, JANUARY 27, 1982

[3356]

* * *

SPECIAL ORDER

Pursuant to Rule 10, Mr. Moe, R.D., Chairman of the Subcommittee on Bill Scheduling, designated H. F. No. 1478 a Special Order to be heard immediately.

H.F. No. 1478: A bill for an act relating to congressional districts; apportioning congressional districts; amending Minnesota Statutes 1980, Sections 2.741; 2.751; 2.761; 2.771; 2.781; 2.791; 2.801; and 2.811.

Mr. Stumpf moved to amend H.F. No. 1478, as amended pursuant to Rule 49, adopted by the Senate January 26, 1982, as follows:

(The text of the amended House File is identical to S.F. No. 1387.)

Page 1, after line 9, insert:

"Section 1. [2.732] [DEFINITIONS.]

*The terms "county", "town", "township", "city", "ward", "precinct", "census block", and "unorganized territory" when used in a description of a district in sections 3 to 10 mean a geographical area established as such by law and as it existed on April 1, 1980."*

Page 1, line 10, delete "2.732" and insert "2.733"

Page 1, line 11, delete "*is*"

Page 1, line 12, delete "*divided*" and insert "*embraces*"

Page 1, line 16, delete "*the state is*"

Page 1, line 17, delete "*generally equally divided between*"

Page 1, line 18, before the comma insert "*is approximately equal*"

Page 1, line 23, delete "*a fragmentation of the*" and insert "*an inequality of*"

[3357]

Page 1, lines 23 and 24, delete "*of these two communities of interest*"

Page 1, line 24, delete "*seven*" and insert "*only three*"

Page 1, line 25, delete everything after "*districts*"

Page 1, line 26, delete everything before the semicolon and insert "*are predominantly metropolitan in character, whereas five of the eight current congressional districts are predominantly outstate in character*"

Page 2, line 1, delete "fragmentation" and insert "*inequality*"

Page 2, line 5, delete the first "*and*" and insert "*, plus*"

Page 2, line 7, delete "*allocated to*" and insert "*encompassing*"

Page 2, line 7, delete "*seventy-eight-county*"

Page 6, after line 8, insert:

"Sec. 11. [EFFECTIVE DATE.]

*This act is effective for elections held in 1982 and thereafter for elections for representatives to serve in 1983 and thereafter.*"

Renumber the sections in sequence

The motion prevailed. So the amendment was adopted.

Mr. Pillsbury moved to amend H.F. No. 1478, as amended pursuant to Rule 49, adopted by the Senate January 26, 1982, as follows:

(The text of the amended House File is identical to S.F. No. 1387.)

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 2.741, is amended to read:

2.741 [FIRST DISTRICT.]

The first congressional district shall consist of the counties of Dodge, Fillmore, Goodhue, Houston, Olmsted, Rice, Steele, Wabasha, ~~Washington,~~ and Winona, *that portion of the county of Washington not included in the fourth congressional district,* and that portion of the county of Dakota not included in the second *or fourth* congressional ~~district~~ *districts.*

Sec. 2. Minnesota Statutes 1980, Section 2.751, is amended to read:

2.751 [SECOND DISTRICT.]

The second congressional district shall consist of the counties of Blue Earth, Brown, Carver, Faribault, Freeborn, *Jackson,* LeSueur, Martin, McLeod, Mower, Nicollet, Scott, Sibley, Waseca, and Watonwan, and that portion of the county of Dakota consisting of the ~~towns of Eagan and Eureka, and the~~ cities of Apple Valley, Burnsville, ~~Farmington, and Lakeville~~ *Eagan, Lilydale, Mendota and Mendota Heights,* and that portion of the county of Hennepin consisting of the ~~cities of Deephaven, Excelsior, Greenwood, Long Lake, Minnetrista, Mound, Orono, St. Bonifacius, Shore-~~

~~wood, Spring Park, Tonka Bay, and Woodland, and the cities of Minnetonka Beach and Wayzata~~ *city of Chanhassen.*

Sec. 3. Minnesota Statutes 1980, Section 2.761, is amended to read:

2.761 [THIRD DISTRICT.]

[3358]

The third congressional district shall consist of that portion of the county of Hennepin ~~consisting of the cities of Brooklyn Park, Chanhassen, Eden Prairie, Edina, Golden Valley, Medicine Lake, Minnetonka, New Hope, and Plymouth, the cities of Bloomington, Brooklyn Center, Crystal, Hopkins, Richfield, Robbinsdale, and St. Louis Park, any part of the area included in the Minneapolis-St. Paul International Airport not a part of an incorporated municipality, and that portion of the city of Minneapolis described as follows: Commencing at the intersection of Fifty-third Avenue North and Xerxes Avenue North, thence southerly along Xerxes Avenue North to Forty-first Avenue North, thence easterly along Forty-first Avenue North to Thomas Avenue North, thence southerly along Thomas Avenue North to Thirty-eighth Avenue North, thence easterly along Thirty-eighth Avenue North to Sheridan Avenue North, thence southerly along Sheridan Avenue North to Thirty-fourth Avenue North, thence easterly along Thirty-fourth Avenue North to Girard Avenue North, thence northerly along Girard Avenue North to Thirty-eighth Avenue North, thence westerly along Thirty-eighth Avenue North to Humboldt Avenue North, thence northerly along Humboldt Avenue North to Forty-second Avenue North, thence westerly along Forty-second Avenue North to James Avenue North, thence northerly along James Avenue North to Forty-third Avenue North, thence westerly along Forty-third Avenue North to Penn Avenue North, thence northerly along Penn Avenue North to Forty-fourth Avenue North,~~

~~thence easterly along Forty-fourth Avenue North to Oliver Avenue North, thence northerly along Oliver Avenue North to the right-of-way of the Soo Line Railroad, thence southeasterly along the right-of-way of the Soo Line Railroad to Forty-second Avenue North, thence easterly along the extension of Forty-second Avenue North to the main channel of the Mississippi River thence northerly along the main channel of the Mississippi River to the extension of Fifty-third Avenue North, and thence westerly along Fifty-third Avenue North and its extension to the point of beginning, and the Fort Snelling Military Reservation~~ *not included in the second, fifth or sixth congressional districts.*

Sec. 4. Minnesota Statutes 1980, Section 2.771, is amended to read:

2.771 [FOURTH DISTRICT.]

The fourth congressional district shall consist of *that portion of the county of Anoka consisting of the cities of Centerville, Circle Pines, Lexington and Lino Lakes, that portion of the county of Dakota consisting of the city of South St. Paul, that portion of the county of Washington consisting of the cities of Oakdale, Newport and St. Paul Park, and* that portion of the county of Ramsey not included in the fifth congressional district.

Sec. 5. Minnesota Statutes 1980, Section 2.781, is amended to read:

2.781 [FIFTH DISTRICT.]

The fifth congressional district shall consist of that portion of the county of Hennepin consisting of the ~~city of St. Anthony and that portion of the city of Minneapolis not included in the third congressional district~~ *cities of Brooklyn*

*Center, Minneapolis, Robbinsdale and St. Anthony*, and that portion of the county of Anoka consisting of the cities of ~~Hilltop, Fridley and Columbia Heights~~ *Blaine, Columbia Heights, Fridley, Hilltop and Spring Lake Park*, and that portion of the county of Ramsey consisting of the city of St. Anthony.

Sec. 6. Minnesota Statutes 1980, Section 2.791, is amended to read:

2.791 [SIXTH DISTRICT.]

[3359]

The sixth congressional district shall consist of the counties of Benton, ~~Big Stone,~~ Chippewa, Cottonwood, ~~Jackson,~~ Kandiyohi, ~~Lac qui Parle,~~ Lincoln, Lyon, Meeker, Mille Lacs, *Morrison*, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Sherburne, Stearns, Wright, and Yellow Medicine, and that portion of the county of Hennepin ~~not included in the second, third, or fifth congressional districts~~ *consisting of the cities of Greenfield, Hanover, Independence, Loretto, Maple Plain, Medina and Rockford.*

Sec. 7. Minnesota Statutes 1980, Section 2.801, is amended to read:

2.801 [SEVENTH DISTRICT.]

The seventh congressional district shall consist of the counties of Aitkin, Beltrami, Becker, *Big Stone*, Cass, Clay, Clearwater, Crow Wing, Douglas, Grant, Hubbard, Kittson, *Lac Qui Parle*, Lake of the Woods, Mahnomen, Marshall, ~~Morrison,~~ Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Swift, Todd, Traverse, Wadena, and Wilkin.

Sec. 8. Minnesota Statutes 1980, Section 2.811, is amended to read:

2.811 [EIGHTH DISTRICT.]

The eighth congressional district shall consist of the counties of Carlton, Chisago, Cook, Isanti, Itasca, Kanabec, Koochiching, Lake, Pine, and St. Louis, and that part of the county of Anoka which is not included in the *fourth or* fifth congressional ~~district~~ *districts.*"

Amend the title as follows:

Page 1, line 6, delete everything after "2.811" and insert a period

Page 1, delete line 7

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 20 and nays 44, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Ashbach | Bernhagen | Kamrath | Peterson, D.L. | Rued |
| Bang | Brataas | Keefe | Pillsbury | Sieloff |
| Belanger | Engler | Kronebusch | Ramstad | Taylor |
| Benson | Frederickson | Lindgren | Renneke | Ulland |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Berg | Frank | Lessard | Penny | Stern |
| Berglin | Frederick | Luther | Peterson, C.C. | Stokowski |
| Bertram | Hanson | Menning | Peterson, R.W. | Stumpf |
| Chmielewski | Humphrey | Merriam | Petty | Tennessen |
| Dahl | Johnson | Moe, D.M. | Purfeerst | Vega |
| Davies | Knutson | Moe, R.D. | Schmitz | Waldorf |
| Davis | Kroening | Nelson | Setzepfandt | Wegener |
| Dicklich | Langseth | Olhoft | Sikorski | Willet |
| Dieterich | Lantry | Pehler | Spear | |

The motion did not prevail. So the amendment was not adopted.

Mr. Berg moved that the amendment made to H.F. No.

1478 by the Committee on Rules and Administration in the report adopted January 26, 1982, pursuant to Rule 49, be stricken and that the Stumpf amendment adopted by the Senate January 27, 1982, be stricken.

[3360]

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 24 and nays 37, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Ashbach | Brataas | Keefe | Peterson, D.L. | Rued |
| Bang | Engler | Kronebusch | Pillsbury | Sieloff |
| Belanger | Frederick | Lindgren | Purfeerst | Taylor |
| Berg | Frederickson | Olhoft | Ramstad | Ulland |
| Bernhagen | Kamrath | Peterson, C.C. | Renneke | |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Benson | Dieterich | Lantry | Penny | Stokowski |
| Berglin | Frank | Luther | Peterson, R.W. | Stumpf |
| Bertram | Hanson | Menning | Petty | Vega |
| Chmielewski | Humphrey | Merriam | Schmitz | Waldorf |
| Dahl | Johnson | Moe, D.M. | Setzepfandt | Willet |
| Davies | Knutson | Moe, R.D. | Sikorski | |
| Davis | Kroening | Nelson | Spear | |
| Dicklich | Langseth | Pehler | Stern | |

The motion did not prevail.

H.F. No. 1478 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 40 and nays 23, as follows:

Those who voted in the affirmative were:

| | | | | |
|---|---|---|---|---|
| Berglin | Frank | Lessard | Pehler | Sikorski |
| Bertram | Hanson | Luther | Penny | Solon |
| Chmielewski | Humphrey | Menning | Peterson, C.C. | Spear |
| Dahl | Johnson | Merriam | Peterson, R.W. | Stokowski |
| Davies | Knutson | Moe, D.M. | Petty | Stumpf |
| Davis | Kroening | Moe, R.D. | Pillsbury | Vega |
| Dicklich | Langseth | Nelson | Schmitz | Waldorf |
| Dieterich | Lantry | Olhoft | Setzepfandt | Willet |

Those who voted in the negative were:

| | | | | |
|---|---|---|---|---|
| Ashbach | Bernhagen | Kamrath | Purfeerst | Stern |
| Bang | Brataas | Keefe | Ramstad | Taylor |
| Belanger | Engler | Kronebusch | Renneke | Ulland |
| Benson | Frederick | Lindgren | Rued | |
| Berg | Frederickson | Peterson, D.L. | Sieloff | |

So the bill, as amended, passed and its title was agreed to.

* * *

JOURNAL OF THE HOUSE [66TH DAY] THURSDAY, JANUARY 28, 1982

[4659]

* * *

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested.

H. F. No. 1478, A bill for an act relating to congressional districts; apportioning congressional districts; amending Minnesota Statutes 1980, Sections 2.741; 2.751; 2.761; 2.771; 2.781; 2.791; 2.801; and 2.811.

PATRICK E. FLAHAVEN, Secretary of the Senate

[4660]

McCarron moved that the House refuse to concur in the Senate amendments to H. F. No. 1478, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the Houses. The motion prevailed.

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